LEGISLATIVE COUNCIL

Thursday 20 July 1995

The PRESIDENT (Hon. Peter Dunn) took the Chair at 11 a.m. and read prayers.

INDUSTRIAL AND EMPLOYEE RELATIONS (MISCELLANEOUS PROVISIONS) AMENDMENT BILL

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That the sitting of the Council be not suspended during the continuation of the conference on the Bill.

Motion carried.

RACING (TAB BOARD) AMENDMENT BILL

Second reading.

The Hon. K.T. GRIFFIN (Attorney-General): I move:

That this Bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

Honourable members are aware of issues which have arisen between the Minister for Recreation, Sport and Racing and the Chairman of the TAB in relation to the communication of financial and other information about the Board's affairs.

In a Ministerial Statement on April 19 1994, the Minister expressed concern about the quality of information provided to him by the Board.

Recent events demonstrate a deterioration in the situation to the point where the Minister and the Government have lost confidence in the information provided to him and the Government by the Chairman.

The current provisions of the Act are relatively narrow and cumbersome in relation to the ability of the Government to deal with a situation in which it has lost confidence in the Chairman.

Accordingly, it is proposed to amend the Act to provide wider grounds for the removal of a member of the Board.

TAB is a multi-million dollar business supporting the racing industry but it is also a statutory corporation.

If it was a private sector company running a business its directors would be accountable to its shareholders and could be removed by the shareholders with or without cause.

Why should the directors of a business run by a statutory corporation be any different?

The shareholders are the people of South Australia and the Government is their representative.

As such, the Government should be able to act to remove a director if it holds the view, as it does in this case, that it is in the interests of the Corporation and its indirect shareholders that change should be made.

The Parliament has already provided for this in the *Electricity Corporations Act 1994* (Section 15) and the *South Australian Water Corporation act 1994* (Section 13).

It is also proposed to increase the membership of the TAB Board from six to eight members to give the Government an opportunity to broaden the range of experience it can appoint to a Board running a multi-million dollar business.

Honourable members will recognise that this Government was elected with an overwhelming mandate to restore full accountability to the operations of all areas of government.

This Bill is fully consistent with that mandate.

Explanation of Clauses

Clause 1: Short title

Clause 2: Commencement

These clauses are formal.

Clause 3: Amendment of s. 44—Constitution of Board

This clause provides for the increase in the number of members of the Totalizator Agency Board from 6 members to 8 members.

The number of members to be appointed on the recommendation of the Minister is increased from 3 to 5.

Clause 4: Amendment of s. 45—Terms and conditions of office

This amendment provides for the removal of a member of the Board on any ground the Governor considers sufficient.

Clause 5: Amendment of s. 47—Quorum, etc.

This amendment increases the number of members necessary for a quorum from four to five. The amendment is consequential on the increase in the number of members of the Board.

The Hon. R.R. ROBERTS secured the adjournment of the debate.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

In Committee.

(Continued from 19 July. Page 2339.)

Clause 9—'Statement of policies and strategies.'

The Hon. SANDRA KANCK: I will not proceed with my amendment, which related to the establishment of the council.

Clause as amended passed.

Clause 10—'Delegation.'

The Hon. BARBARA WIESE: I move:

Page 5, line 32—After 'may' insert ', with the approval of the Minister,'.

This amendment deals with the delegation of powers by the Chief Executive to others within the Health Commission or elsewhere. My amendment seeks to make clear that such delegations by the Chief Executive should be with the approval of the Minister.

The Hon. DIANA LAIDLAW: I am not sure whether the honourable member has instances where the Opposition is concerned about the current power that the Chief Executive has to delegate certain responsibilities. When the honourable member was Minister, I suspect that she did not require her CEO to refer to her and to seek approval from her before delegating certain powers. It is a standard provision in any legislation that the CEO can delegate powers without seeking the Minister's approval. This would be an extraordinary step in terms of the legislative requirements in South Australian statutes: it is certainly not provided today. I am not sure whether the honourable member has instances where the Opposition considers that there has been abuse of what has been a longstanding procedure in terms of effective government.

The Hon. BARBARA WIESE: In my experience as Minister there were numerous occasions where powers that were being delegated to the Chief Executive Officer or by the Chief Executive Officer to others within the organisation were brought before the Minister. I can recall numerous occasions, particularly early in the days after becoming a Minister for a particular portfolio, when a long list of delegations would be presented to me for signature and for my approval. So, there are occasions in some portfolios and in accordance with particular legislation where it is necessary for the Minister to approve the delegation of powers.

The Opposition in this case feels that it is desirable for the Minister to be aware of the delegations that are taking place in the Health Department so that she can have better oversight of what is happening there. That is the reason for the amendment.

The Hon. DIANA LAIDLAW: With due respect, a Minister's being aware of a situation is very different from a Minister's having to approve a situation, and the honourable member may recall, as I think the Hon. Sandra Kanck would, that when the Government Management Bill went through this place very recently there was no such requirement in that Bill, and therefore no such requirement across Government,

that the delegation power in relation to a Chief Executive Officer must be approved by the Minister before it can be authorised. If it was not seen as a standard necessary for Government as a whole (and the honourable member has provided no examples of where this may have been abused or where concern has arisen), the Government does not believe that the case has been made for this amendment and it certainly does not support it.

The Hon. SANDRA KANCK: The Democrats will be supporting this amendment. We are talking about delegating powers or functions and, if we go back to clause 7 and read what some of those functions are, we see, for example, paragraph (c), which provides:

to provide, or enable the provision of, health services that are necessary for the public benefit.

If that is being delegated to someone else I think it is a highly significant delegation and must be done with at least the knowledge and, I would hope, the approval of the Minister. If we do not have this in, the Minister will be at a disadvantage not knowing what is happening. We have seen what has happened in relation to the TAB in recent times, when the Minister does not know what is happening.

Amendment carried; clause as amended passed.

Clause 11 passed.

Clause 12—'Incorporation of service units.'

The Hon. BARBARA WIESE: I move:

Page 7, lines 6 and 7—Leave out subclause (2) and insert the following:

(2) Before the Governor establishes an incorporated service unit—

(a) the Chief Executive must—

(i) invite representations on the proposal from interested members of the public by notice published in a newspaper circulating in the area in which the incorporated service unit is to be established; and

(ii) consider representations from members of the community made in response to the invitation within a reasonable time (which must be at least 90 days) specified in the notice; and

(iii) report to the Minister on the representations from members of the community and other relevant matters) approve a constitution for the incorporated service unit.

I have moved this amendment in an amended form from that which was circulated. Paragraph (2)(a)(ii) specifies a time period of 90 days, not 60 as previously indicated.

This amendment is one of a number which is being put forward by the Opposition in order to improve the ability for people in the community to be consulted in the decision making process on health matters. The Opposition has continually argued that there should be more participation and consultation with the community than provided in this Government's legislation, and that there should be more openness in the decision making process. Therefore, with the incorporation of service units, we wish to improve the situation for members of the community to have a say as to how these issues should be addressed. So, the Chief Executive would be required to invite representations, consider those representations and report to the Minister on the information that has been provided through consultations with the community. Thereby, we think it would be much more likely that we would have the development of a health system which is in keeping with the demands of the South Australian community.

The reason I have moved this amendment in its amended form, that is, making the period of time for consultation at least 90 days, is that we have received representations from people in the health field which suggest that, in view of the various meeting cycles of organisations, 30 or 60 days is simply not long enough for them to consider serious matters that may arise in the health arena. If they were to be given more time, they could be sure that information was presented to their various decision making bodies and relevant submissions made.

The Hon. DIANA LAIDLAW: I was interested on a number of fronts in relation to this amendment, which we oppose. All members would know that, in establishing such units, consultation always takes place. Sometimes it is more elaborate than on other occasions. Certainly when the Women's and Children's Hospital was established, there was a long series of consultation on that. There certainly was opposition. I do not think that this structure here would have made any difference to the consultation process undertaken. There has been consultation on the Lyell McEwin and QEH amalgamation issues, and so there should be, and it is the practice that such consultation takes place under the provisions of the Bill. Sometimes it will be controversial, sometimes it will not. An example is Mareeba, the pregnancy advisory service established as an outreach service from the QEH. I am not sure whether the honourable member would be advocating that this process was one that would be ideal in those circumstances as well.

These health units will attract both support and opposition, and ultimately decisions will have to be made. This amendment extends by 90 days the final decision making process in this respect. Such a decision would not be undertaken without considerable consultation, and that takes place now within the ambit of the current legislation without provisions such as this being added.

The Hon. SANDRA KANCK: The Democrats support this measure. What is happening at Kadina at the present time is an example of where consultation is not occurring. Any negotiations that are going on are between the Government and a small group of people who are currently on the Kadina hospital board, but the community does not have a clue. Everything will be signed, sealed and delivered in that coup before the public gets to find out what is happening. Given that the public are generally the users of the health services I think they have a right to know and a right to contribute.

The Hon. DIANA LAIDLAW: Kadina is a private hospital. Surely the honourable member is not suggesting that she or I or this Parliament make decisions about private hospitals—but perhaps she is. It would certainly be a new element in Government, and other private hospitals may well be interested in such an approach. I indicate here that this is about the incorporation of a new service unit, not about the closure of such a unit. Certainly, the Government makes additional consultation proposals and the like in closing such a unit. This is establishing a unit, and I am surprised that anybody would want to see the establishment of such a unit delayed by a further three months, as is proposed.

The Hon. SANDRA KANCK: I raise the issue of Kadina Hospital because a new entity will be created when Kadina Hospital is closed, and it just happens to be that it will be on the site of a private hospital that will be closed. What I am saying in that example is that the negotiations are not occurring with the community about that new entity, and they should be happening.

Amendment carried; clause as amended passed.

Clause 13 passed.

Clause 14—'Designation of incorporated service unit as a regional service unit.'

The Hon. BARBARA WIESE: I seek to move this amendment in an amended form, changing '60 days' to '90 days'. I move:

Page 7, after line 26—Insert new subclause as follows:

(2) A proclamation designating an incorporated service unit as a regional service unit must provide for the composition of the unit's board of directors and for the appointment or election of persons to the board.

(3) Before a proclamation is made under this section, the Chief Executive must—

(a) invite representations on the proposal from incorporated service units in the proposed region by written notice given to each of those incorporated service units; and

(b) invite representations on the proposal from interested members of the public by public notice published in a newspaper circulating in the area in which the regional service unit is to be established; and

(c) consider representations made in response to the invitations within a reasonable time (which must be at least 90 days) allowed in the respective notices; and

(d) report to the Minister on the representations.

(4) A proclamation under this section—

(a) is a statutory instrument that must be laid before Parliament and is subject to disallowance in the same way as a regulation; and

(b) cannot come into operation until the period for disallowance has elapsed.

The arguments for this amendment are very much the same as those put for the previous amendment. The idea is to ensure that there is adequate community consultation before regional service units are established. I believe that the Minister and the Government will use the same sort of argument—that this will delay decision making—but we would suggest to the Government that if it planned better there would be adequate time for the community to be consulted about health services. After all, they do not belong to the Government; they are there for the use of the community and they ought to be delivered according to the wishes of the community to the extent that that is possible. Members will note that this amendment provides that a proclamation made under this section is to be regarded as a statutory instrument that must be laid before Parliament and be subject to disallowance in the same way as a regulation. We believe it is important to include that in this legislation so that there can be proper parliamentary scrutiny of these organisations and their establishment.

From my experience as a member of the select committee on the privatisation of Modbury Hospital, I know that there is a strong feeling in the South Australian community that the Government and the Minister for Health in particular are not interested in the views of the community and do not consult. People who have enjoyed the services of Modbury Hospital for many years have felt very annoyed at the decisions that were taken without reference to the community as to whether the change to a private company running that hospital would be desirable. Perhaps, had there been adequate consultation, community fears could have been allayed, but the Government chose to act in an arrogant and arbitrary way and to make decisions without talking to the community. That is totally unacceptable, and for that reason we seek to build in the various measures relating to community participation and community consultation.

The Hon. DIANA LAIDLAW: The Government opposes the amendment on three grounds. First, proclamation is an inappropriate way to address matters such as the composition of the board. The composition of the board of directors and the election of members should be addressed in the Constitution rather than by proclamation. That is the standard practice and we see no reason to depart from it. Secondly, it requires extensive consultation, which I have argued is unnecessary. It does not suggest that consultation will not be undertaken, but to have it in a statutory manner in terms of 90 days seems to be inflexible, unnecessary and rather paranoid. Thirdly, it provides for the disallowance of the establishment of such an incorporated health unit. The use of statutory instruments and the possibility of disallowance in circumstances in which the administration of the health system is being addressed represents a misunderstanding of the Westminster system and the responsibilities of Executive Government.

I should highlight also for the benefit of honourable members that the amendment comes some time after the Minister and the Health Commission have already established, in relation to the seven proposed regional boards, seven interim boards in country areas. All of them have been established without controversy and with the full cooperation of the community. Those examples alone prove the care and responsibility that the Minister and the Health Commission are taking in regard to these matters. They recognise the sensitivity, and they are moving with care and with the cooperation of the community. The amendment is not needed on any front.

Any Minister would know that consultation is a most worthy goal in effective decision making. However, one has to be careful that, at some stage, decisions have to be made. In the Modbury Hospital case, 15 per cent of standard health costs and procedures have already been saved. That is a further 15 per cent which has not been lost to the health community and which had not been saved by these different arrangements. That reminds me of a former, now departed, senior member of this place, who said to me a few months ago, 'You may not like all the decisions that I am making, but thank God that somebody is making decisions.' That former Minister would probably make the same remark in respect of the tenor of this debate.

The Hon. SANDRA KANCK: We will support this amendment. It is a significant act to say that one particular incorporated service unit will be a regional service unit. In the Riverland, for instance, Berri Hospital has that role and there is still debate in the assorted towns and cities in that area as to whether Berri is the appropriate place for the regional service unit.

The Hon. Diana Laidlaw: Do you think 90 days will help Berri and the Riverland work those things out?

The Hon. SANDRA KANCK: Before the decision is made it might help 'the Governor', as it is put, to come to a rational decision on it. It is significant when one hospital is given this title, because it is then able to perform services that lesser hospitals are not able to. I can provide in this case an example of a sub-regional hospital—not a regional hospital, because in my dash from one meeting to another today I could grab only details of this one. We have only to look at what happened in regard to Tanunda and Angaston Hospitals when Angaston became a sub-regional hospital. Tanunda Hospital was effectively prevented from offering certain services by the funding arrangements—

The Hon. Diana Laidlaw: What year are you talking about?

The Hon. SANDRA KANCK: It does not matter what year. For instance, if an endoscopy is performed at Angaston Hospital it attracts funding of $140 per day while at Tanunda Hospital it attracts $20 per day. That sort of funding return effectively means that Tanunda Hospital can no longer perform endoscopies. Surgeons receive an allowance to travel

to regional and sub-regional hospitals but as Tanunda is neither of those it does not qualify. A visiting surgeon might actually drive through Tanunda on the way to Angaston but because that travel allowance is not available there is no incentive for that surgeon to stop at Tanunda and perform operations there. It means that the people of Tanunda are effectively forced to go to Angaston Hospital for many of the services they receive.

These are a couple of examples of the sorts of things that happen when you upgrade one hospital. I am sure that if there had been any consultation on this the people of Tanunda might have had quite a bit to say about Angaston Hospital being made the sub-regional hospital, because this has resulted in a disservice to them. It is an important act when we declare a unit to be a regional hospital. The people in those towns who will not have a regional hospital must know that they will get some form of reduction in services, and they need to be part of that debate.

Amendment carried; clause as amended passed.

Clause 15 passed.

Clause 16—'Assignment of functions to various service units.'

The Hon. BARBARA WIESE: I move:

Page 8, after line 12—Insert new subclause as follows:

(1a) Before an incorporated service unit asks for transfer of its functions to a regional service unit, it must—

(a) invite representations on the proposal from interested members of the public by notice published in a newspaper circulating in the area in which the incorporated service was established; and

(b) consider representations from members of the community made in response to the invitation within a reasonable time (which must be at least 90 days) specified in the notice; and

(c) report to the Minister on the representations made by members of the community.

This is the third in a series of similar amendments. This amendment requires that, before an incorporated service unit asks for transfer of its functions to a regional service unit, there should be community participation in the decision making and the opportunity for people to have a say, with those representations or any representations made by the community to be taken into consideration in a proper way. I do not think I need say any more about that. The arguments follow from the previous discussion about community participation. The Opposition's strong view is that this Government thus far in the health field has not demonstrated a willingness to listen to the community as to its views on the provision of health care.

The Hon. DIANA LAIDLAW: Again, the Government opposes the amendment, on the grounds that it relates to the length of statutory time required for consultation. We are not opposed to consultation: that has been demonstrated on many occasions. It also appears to be a reflection on boards of directors. They will hardly enjoy their local status and respect in the community if they do not consult, and they would not be there in the first place if they did not have their community at heart in the delivery of health services. We do not believe that any examples have been given showing that current procedures have gone astray. Therefore, it is unnecessary.

The Hon. SANDRA KANCK: Whilst there have not been any examples of current procedures going astray, I am aware that within service units over the past 18 months a great deal of subtle pressure has been applied to agree with requests that have been made by the Health Commission. Therefore, I have some doubts whether such requests will always be entirely voluntary. Again, I look at the Kadina Hospital as an example, because I am dealing with that at the moment. I know it is a private hospital, but the same thing is occurring there: the community does not know what is happening. It is only by going through this public process that the community can know. If it is occurring because the Government is applying subtle pressure, that will come out as part of this process.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Leave out subclause (2) and insert the following subclauses:

(2) If the Governor assigns the functions of an incorporated service unit to a regional service unit, the Governor must by the same or a later proclamation dissolve the incorporated service unit and vest its property in the regional service unit.

(2a) However, if any real property of the incorporated service unit is, in the Governor's opinion, subject to a charitable trust, the Governor must, by proclamation, establish a board of trustees (comprised of persons from the community served by the former incorporated service unit) and vest that real property in the board of trustees.

This amendment seeks to make clear that where the functions of an incorporated service unit are assigned to a regional service unit and any real property is subject to a charitable trust, the Governor must establish a board of trustees and vest that property in the board of trustees, which is to comprise persons from the community served by the former incorporated service unit. There have been comments during the debate about the Minister's supposed power to acquire and dispose of community-owned health service properties. This amendment makes clear that that will not be the case. In fact, I emphasise that it was never intended to be the case. It is a matter of responding to some concerns in the community and clarifying the way in which surplus property will be addressed.

The Hon. BARBARA WIESE: The Opposition supports this amendment and acknowledges with pleasure that the Government has listened to the concerns that have been expressed about these matters.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 8, line 24—Leave out 'If' and insert 'However, if.'

This is a drafting amendment that is consequential upon the last amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 8, lines 25 and 26—Leave out 'and all other rights and liabilities of the former incorporated service unit vest in the regional service unit.'

Again, this is a consequential drafting amendment.

Amendment carried; clause as amended passed.

Clause 17—'Board of trustees.'

The Hon. BARBARA WIESE: I move:

Page 9, after line 2—Insert new subclause as follows:

(3a) Meetings of a board of trustees must be open to the public.

This amendment simply provides for meetings of the board of trustees to be open to the public. It is part of the series of amendments that we are moving to ensure that the community is informed about what is happening in these areas.

The Hon. DIANA LAIDLAW: This Government considers this a most inappropriate amendment. We are dealing with property which must be disposed of and which will require many commercially sensitive dealings. Perhaps the honourable member would see this matter driven underground or discussed prior to even the meeting of the board of trustees, and I do not think that would be a very

healthy situation to encourage. As a general principle, the Government would be encouraging the boards to hold such meetings in public where appropriate but circumstances will arise where that is inappropriate.

The amendment states that meetings of the board of trustees must be open to the public. If the honourable member would like to consider the word 'must' this amendment might be more palatable, but the word 'must', which means in any circumstances, is totally inappropriate for the work that we have just agreed the board of trustees must undertake, namely, the disposal of property, which is a commercial undertaking in most instances.

The Hon. SANDRA KANCK: It may well be a commercial undertaking, but one must recognise the role the public has played in acquiring some of that property. One must remember the raffles and balls, and so on, that country hospitals have undertaken over the years to raise money to buy equipment, such as neonatal equipment. By not allowing the public to be part of that decision all the work that the community has done over the years can simply be dispensed with without its knowledge. For instance, a renal dialysis unit was donated by a family in the Riverland. How would that fare under this procedure? Quite likely, a board of trustees could quietly meet and dispatch that renal dialysis unit without the family that donated it even knowing. It is important that the public be involved in this.

Amendment carried; clause as amended passed.

Clause 18—'Function of board of trustees.'

The Hon. BARBARA WIESE: I move:

Page 9, after line 9—Insert new subclause as follows:

(2) A board of trustees must not sell, transfer, lease or otherwise dispose of any real property that is used, or set apart for use, for the provision of health services except on a resolution of the board in which at least two-thirds of all the trustees concur.

This amendment is moved in response to representations that have been made to the Opposition by various people in the community, particularly in country areas, where there is a fear that boards of trustees may sell off property and assets without due regard being given to the views of local communities in situations where many people have worked many long hours over many years raising money in order to provide the equipment that is the subject of consideration.

People have indicated that they would feel much happier about the situation if at least two-thirds of all trustees were present when such a decision was taken, as this would provide some level of protection against boards of trustees being directed by the Minister or the Chief Executive, or in some other way being coerced or put under pressure. I commend the amendment to the Committee.

The Hon. DIANA LAIDLAW: I oppose the amendment, but not because I do not appreciate the sensitivity of the issue. Members of my family still work on health boards in country areas, and they are always raising funds for various pieces of equipment. I understand that the Minister and the Health Commission acknowledge generally the sensitivity of the issues being expressed. However, the Act already provides guarantees. I mentioned earlier the decision making by the trustees in relation to any property that they may wish to sell and that it can be commercially confidential.

Whether it is a decision to sell, to transfer or otherwise dispose of real property, the trustees do not make that decision ultimately: protections are provided in the Act now. The trustees cannot facilitate the action without a Supreme Court order or an Act of Parliament. Those protections are already provided for. They are pretty powerful protections because, in both instances, the Supreme Court in its order, or the Parliament, would need to be satisfied that all consultations and issues had been fully explored together with the interests of the community and of the health sector. So, powerful protections are already provided for in the Bill and we believe they are more powerful than the step proposed by the honourable member in her amendment.

The Hon. SANDRA KANCK: I am pleased to hear that these powerful protections exist, but I am not sure that all people will take the step of going to a court. If that level of accountability can be achieved by putting in the two-thirds vote, then I do not think the Government would have any reason to complain. We will be supporting the amendment.

The Hon. DIANA LAIDLAW: It will be illegal for the trustees to do it at the local level. They can make their recommendation but it will be illegal for them to sell, transfer or lease such properties. They will have to get a Supreme Court order or the approval of the Houses of Parliament. Whether it is a decision by one person or the full board of trustees, it will still require a Supreme Court order or an Act of Parliament. Those guarantees are important and are already provided for in the Bill.

Amendment carried; clause as amended passed.

Clause 19—'Amalgamation of incorporated service units.'

The Hon. DIANA LAIDLAW: I move:

Page 9, lines 14 to 16—Leave out subclause (2) and insert the following subclause:

(2) Before the Governor amalgamates two or more incorporated service units—

(a) the Chief Executive must—

(i) invite representations on the proposal from the boards of the incorporated service units that are the subject of the proposal; and

(ii) consider the representations made by the boards within the period stipulated by the Chief Executive (which must be at least 30 days); and

(iii) report to the Minister on the representation made by the boards; and

(b) the Minister must approve a constitution under which the incorporated service unit formed by the amalgamation is to be administered.

This amendment relates to the amalgamation process of two or more incorporated service units. This amendment spells out the process and provides that the Chief Executive must invite representatives from the boards of the incorporated service units; they must have at least 30 days to respond; and the Chief Executive must consider the representations and report on them to the Minister. This amendment therefore seeks to build in due process. I emphasised this point earlier when talking about the establishment of boards: that, in terms of the amalgamation or closure of any incorporated service units, the Government certainly believes it is appropriate to have these statutory time frames for discussion and response.

The Hon. BARBARA WIESE: The Opposition opposes this amendment. Although we acknowledge that the Government is building into legislation a requirement that at least the board must be consulted, we do not agree with it in any case because it nevertheless allows for forced amalgamations of health units, and the period of 30 days that is allowed for the limited consultation in which the Government is prepared to engage is simply farcical: it is just not enough time for relevant parties to consider the issues and to make representations. So, although we acknowledge that some limited consultation is being provided here, we would much prefer

to see an amendment along the lines of that which I have before the Committee and which I now formally move:

Page 9, lines 14 to 16—Leave out subclause (2) and insert the following:

(2) Before the Governor amalgamates two or more incorporated service units, the Minister must—

(a) ensure that each incorporated service unit affected by the amalgamation consents to the amalgamation; and

(b) approve a constitution under which the incorporated service unit formed by the amalgamation is to be administered.

That takes proper account of community views by requiring that each incorporated service unit that is the subject of an amalgamation proposal must consent to such an amalgamation, obviously thereby ensuring that there are no forced amalgamations. This, I might say, in another area of Government responsibility used to be the policy of the Liberal Party with respect to local government. The Liberal Party used to have a policy that there should be no forced amalgamations of councils, and I am surprised that, when it comes to health service units, the policy is very different.

The Hon. SANDRA KANCK: I will support the Opposition's amendment. Probably the area of most appeal is the fact that it is the Minister who must ensure that the two units actually consent to it. I believe that bringing it back up to the Minister is extremely important in this case. I also agree with the Hon. Ms Wiese that the period of 30 days is really not adequate and, although neither amendment addresses it, I would like there to be some public consultation as well.

The Hon. Diana Laidlaw's amendment negatived; the Hon. Barbara Wiese's amendment carried; clause as amended passed.

Clause 20 passed.

Heading—'DIVISION 4—CHIEF EXECUTIVE'S POWER OF DIRECTION.'

The Hon. DIANA LAIDLAW: I move:

Page 9, line 27—Leave out 'CHIEF EXECUTIVE'S' and insert 'MINISTER'S'.

This amendment leaves out 'Chief Executive' and inserts the term 'Minister' in relation to power of direction. In a sense it is consequential on earlier amendments that sought to insert head of power for the Minister. Consistent with that approach, this amendment and several of those that follow seek to vest the power of direction in the Minister. Comments from the field in recent weeks have indicated a preference for the legislation to assign that power to the Minister, albeit that it is recognised that for administrative expediencies in some circumstances the Chief Executive may exercise that power. This is in response to concerns expressed from the health field.

Amendment carried.

Clause 21—'Incorporated service units to be subject to direction.'

The Hon. DIANA LAIDLAW: I move:

Page 9, line 29—Leave out 'Chief Executive' and insert 'Minister'.

This is consequential.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 9, lines 30 to 35, and page 10, lines 1 to 13—Leave out subclause (2) and insert the following subclause:

(2) A direction cannot be given—

(a) so as to affect clinical decisions relating to the treatment of any particular patient; or

(b) for the transfer of the Chief Executive Officer of an incorporated service unit to another incorporated service unit.

This amendment recasts subclause (2) to make it clear that there are certain areas in respect of which direction cannot be given: first, so as to affect clinical decisions relating to the treatment of any particular patient. This is and should remain the province of health care professionals. Secondly, we are indicating that a direction cannot be given for the transfer of the Chief Executive Officer of an incorporated service unit to another incorporated service unit. This would be a matter of negotiation between the parties involved should such circumstances arise.

The Hon. BARBARA WIESE: The Opposition supports this amendment. The recasting of the amendment to make provision for directions that cannot be given, rather than trying to list all those matters upon which directions can be given, is probably a better way of going about the task. However, there is one further point that the Opposition would like to add to the list of directions that cannot be given, and I move:

Page 10, after line 13—Insert the following subclause:

(2a) A direction cannot be given so as to reduce an incorporated service unit's capacity to meet its health service delivery objectives under its constitution.

We would like to see that third point added.

The Hon. DIANA LAIDLAW: The Government opposes this amendment. I indicated earlier that Government amendments have given the power of direction to the Minister rather than to the Chief Executive and removed the examples of areas of direction and, furthermore, a constraint is placed on the Minister's power of direction in respect of clinical decision making and the transfer of the Chief Executive Officers. That is the nature of my amendments, for which the Opposition has indicated support. The proposed amendment will not allow the Minister to give a direction in circumstances where the direction is contrary to the objectives of a health unit's constitution.

The constitution is drawn up at a point of time and may well include objectives that are appropriate at that time but not appropriate at some future period. The Minister may well wish to issue a direction to an institution in order to meet his or her objectives as laid down in the objectives of this Act, those that we have broadened and clarified and, I suspect, made more relevant to the nature of health services. Now that that is a requirement for the Minister, we are indicating that the Minister may well see a need to issue directions to a health unit in relation to the new objects under this Act and not objects or details which may be in a constitution but which may not have been amended for some time, and such amendments would take time to amend if anyone wished to do so to bring them up to date with the objects of this Act.

So, we are putting a Minister in a fairly difficult situation. At one time you are asking him or her to act in accordance with the objects. Secondly, the constitution of an incorporated unit may be in conflict with that, yet you are saying the Minister cannot give a direction to that unit based on an outdated constitution. We do not support this amendment on that basis.

Amendment to amendment carried; amendment as amended carried.

The Hon. BARBARA WIESE: I move:

Page 10, line 14—After 'writing' insert 'and must be published in the *Gazette*'.

This amendment seeks to add to the openness and public accountability in this area and requires that any directions given must be published in the *Gazette*.

The Hon. DIANA LAIDLAW: The Government will be moving an amendment that Government directions be published in the health unit's annual report. We believe that it is sufficient that such directions be published in the annual report. I have a real fear at the rate we are going that the Health Commission almost alone will be sustaining the *Gazette*.

The Hon. SANDRA KANCK: I think my position on openness has been put before in regard to the *Gazette* and I will support it yet again.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 10, after line 14—Insert new subclause as follows:

(4) Particulars of directions given under this section to an incorporated service unit must be included in the unit's annual report.

I feel rather uncomfortable suggesting that further particulars of directions should be provided now in the unit's annual report, when the Legislative Council has just agreed that they should also be in the *Gazette*. I have argued consistently that it is a benefit to people to have these in the one report rather than having to scour through the *Government Gazette*, if anybody is even aware that it exists, and find details about the particulars of directions. It is much more beneficial for them to be in the one set of documents, and that should be the annual report.

The Hon. BARBARA WIESE: The Opposition supports the Government's amendment, but we do not think that that is sufficient, so I move:

Page 10, after line 14—Insert new subclause as follows:

(4) Particulars of directions given under this section must be included in the relevant annual report of the department.

If there is not some consolidation of directions in the annual report of the department, anyone who wishes to know what directions are being given by the Minister has to rush around looking for the annual reports of all the 200 health service units, I think the Minister said, around the State, in order to find out what is going on. It is the view of the Opposition that the department's annual report should include these directions. If the Government wants them also in the unit's annual report, that is fine by us.

The Hon. SANDRA KANCK: I have to assure the Minister that, given her observation again about the *Gazette*, I for one will be looking forward to seeing these directions. I believe that the Opposition's amendment is preferable to the Government's amendment in this case. I think the idea of having to chase around to get each service unit's report is really quite stupid. Again, I will look at what makes life easier for me. Certainly having it all together in the one report will be much easier for my research purposes and for most people who are interested in the delivery of health service in this State.

The Hon. Diana Laidlaw's amendment carried; the Hon. Barbara Wiese's amendment carried; clause as amended passed.

Clause 22—'Board of directors.'

The Hon. BARBARA WIESE: I move:

After 'approved constitution' insert 'or, in the case of an incorporated service unit that is a regional service unit, in accordance with the proclamation under which the regional service unit was established'.

This amendment makes clear the decision making process by which the regional service unit was established and it provides consistency with what is already in the Bill, as amended. This amendment makes this clause consistent with the amendments that we have already made so that they follow through the Bill.

The Hon. DIANA LAIDLAW: I did not think the honourable member's arguments were strong, but it is true that this is a machinery amendment and we are happy to accept it.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 10, after line 18—Insert new subclause as follows:

(1a) The membership of a board of directors must include—

(a) persons representative of the medical staff, and others representative of the non-medical staff, of the incorporated service unit; and

(b) persons representative of the community and any special interest groups served by the incorporated service unit; and

(c) persons who have expertise in financial management or management generally.

This relates to the membership of the board of directors and specifies the types and categories of skills and expertise that ought to be included in the selection of members of the board. It also picks up a point that I think the Australian Democrats were keen to pursue. Paragraph (1a)(b) of my amendment provides that persons representative of the community and any special interest groups served by the incorporated service unit should be participants on this board. It is the Opposition's view that there should be community representation and that the other categories of representation, including people with medical expertise and people with financial management or management skills generally, ought to be those from which the Government draws in establishing these boards, and we wish this to be specified in the legislation.

The Hon. DIANA LAIDLAW: We have some difficulty with this amendment, because there is a range of incorporated units and it would be appropriate to have medical staff on the boards of some of them and not others. An example given to me is the Royal District Nursing Service, a very large organisation which is valued in the community and which provides home nursing services. We consider—and certainly it considers—that it would not be appropriate to require it to have medical staff on its board of directors. So, in some instances the honourable member may be right; in others we and the organisation itself would argue that she is not. On that basis, we understand the sentiment but we oppose the amendment.

The Hon. SANDRA KANCK: The Democrats support this amendment. It has often been a question in my mind whether we might have had a different outcome had there been a staff representative on the board of the State Bank. I believe that staff representation—

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: He was not the staff representative, unfortunately; there was not one. Based on experiences like that, it seems to me that having staff representation is very important, because their jobs depend on the viability of these units. I am also very pleased with part (b), which ensures community representation, so I am pleased to support the whole of this amendment.

The Hon. DIANA LAIDLAW: Does the honourable member who moved the amendment consider it appropriate for medical staff to be on the board of the Royal District Nursing Service when they have never had it and do not want it?

The Hon. BARBARA WIESE: As a matter of principle it is desirable to have members of staff on management boards, because they often bring experience and knowledge which is not available to a board in other ways. So, wherever it is appropriate, staff representatives ought to be there.

The Hon. DIANA LAIDLAW: The amendment does not provide 'where it is appropriate'; it provides that the membership of the board of directors must include persons representative of the medical staff and others representative of the non-medical staff. In the Royal District Nursing Service, for instance, there are no medical staff. That is the point. The amendment obliges this Parliament to require of the board of directors something that is impossible to achieve.

The Hon. BARBARA WIESE: I guess you would call nursing staff 'medical staff' of one sort or another. I am not sure how it is defined in the health field but, in terms of a layman's view of these things, nurses are part of the medical staff; they have medical expertise of one sort or another. In the case of the Royal District Nursing Service, it would be the view of the Opposition that someone who was involved in that organisation should be representing staff.

The Hon. DIANA LAIDLAW: The honourable member is getting her shadow Minister for Health in a bit of deep water with that answer, because there is quite a distinction between 'medical', 'nursing' and 'clinical'. It is an important issue.

Members interjecting:

The Hon. DIANA LAIDLAW: Yes; I know the politics of nursing and medical issues. I would suggest to the honourable member that I have highlighted a real difficulty, and we may as well seek to address it here as in conference later, if she is prepared to do so. If we could delete the word 'medical' and substitute the word 'clinical', we would overcome the difficulties. So, if the clause now provides that the membership of the board of directors must include a person representative of the clinical staff, it would cover that ambit, but 'medical' does not.

The Hon. BARBARA WIESE: I am quite happy to be advised by the Minister on this matter. I certainly do not wish to become involved in the politics between doctors and nurses. My amendment also referred to others representative of non-medical staff. Nevertheless, if it assists the process by using different terminology in order to cover the people whom we believe should be represented on those boards and provide a choice between doctors, nurses or whatever the case may be, I am happy to accommodate that and change the words to 'persons representative of clinical staff'.

The CHAIRMAN: I advise the Hon. Barbara Wiese that she needs to seek leave to amend her amendment.

The Hon. BARBARA WIESE: I so do.

Leave granted; amendment amended.

Amendment as amended carried; clause as amended passed.

Clause 23—'Functions of the board of directors.'

The Hon. SANDRA KANCK: I move:

Page 10, line 26—Leave out paragraph (b) and insert the following paragraph:

(b) an agreement between the board and the Minister.

This is a precursor to the next amendment. It anticipates it by making it clear that the agreement is between the Minister and the board, rather than the Chief Executive and the board. It is important that, in such a significant matter as the service agreements, responsibility must lie with the Minister. I will elaborate more on the service agreements in the following amendments.

The CHAIRMAN: I wonder whether the Minister would like to move her amendment also, as they are both on the one line. We can then discuss them both.

The Hon. DIANA LAIDLAW: I move:

Page 10, line 26—Leave out 'Chief Executive' and insert 'Minister'.

This amendment is consistent with earlier amendments which insert 'Minister' instead of 'Chief Executive'. The Government's view is that the amendment in the name of the Hon. Sandra Kanck would make regionalisation in country areas extraordinarily difficult, if not unworkable. Regional boards will receive funding from the proposed health department's purchasing organisation via a service agreement, and then negotiate their own service agreements with individual service units within their regions.

It would be reasonable for the Minister to be involved in the agreements between the Health Department and regional boards, but it will negate the entire purpose of having regional boards if the Minister is involved in agreements between the boards and the individual service units. It is an unnecessary step, it is unworkable and it undermines much of the reason for having regional boards in the first place.

The Hon. BARBARA WIESE: The Opposition supports the Government's amendment and that which has been put forward by the Hon. Ms Kanck.

The Hon. Sandra Kanck's amendment carried.

The Hon. SANDRA KANCK: I move:

Page 10, after line 26—Insert new subclause as follows:

(1a) The Minister must enter into an agreement of the kind referred to in subsection (1)(b) with the board of each incorporated service unit.

(1b) Before entering into such an agreement, the Minister must ensure adequate consultation has taken place with health consumers and providers.

(1c) An agreement may, for example, make provisions for—

(a) the range, level of distribution of services to be provided by an incorporated service unit;

(b) the resources to be made available to the unit's board of directors.

(1d) An agreement will be for a period of one year or such longer period as the parties may agree.

(1e) If either party to an agreement becomes aware of any circumstances likely to affect its ability to meet its obligations under the agreement—

(a) that party must inform the other in writing of the fact; and

(b) the other party must respond in writing within 6 weeks; and

(c) if appropriate, the parties may vary the agreement.

The amendment puts into place something that already happens in this State: hospitals are having to sign health service agreements. If they do not sign, they do not get their money. Despite the fact that those agreements form the basis of any relationship between funding agencies and the providers of the services, clause 23(1b) makes only passing reference to the agreement. The wording that I have put in place is based on a Tasmanian Act, the Health (Regional Boards) Act 1991. It paraphrases section 26 of that Act. I have kept the wording suitably vague so that the Government can still have the flexibility that it desires, but it is essential that we have something in the Bill which recognises that that fundamental relationship exists.

The Hon. DIANA LAIDLAW: The Government opposes this amendment for the reasons that I outlined earlier in terms of the doubling up of the requirements upon the Minister. As I have said, the Minister would be involved in agreements between the Health Department and regional boards, but we do not believe that it is appropriate that he be involved between the regional boards and the individual service units.

The Hon. BARBARA WIESE: On this matter, the Opposition agrees with the Hon. Ms Kanck.

Amendment carried.

The Hon. SANDRA KANCK: I move:

Page 10, line 27—Leave out 'any agreement of the kind referred to in subsection (1)(b)' and insert 'such an agreement'.

This amendment is consequential on the earlier amendment.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 10, after line 28—Insert new subclause as follows:

(2a) An incorporated service unit must make a copy of any agreement of the kind referred to in subsection (1) (b) available for inspection by members of the public during the hours that the unit is normally open for business (or, in the case of a hospital, during the hours that the hospitals's administrative office is open for business).

This is part of the series of amendments relating to openness and accountability. We are seeking to ensure that a copy of any agreement of the kind which is referred to in subclause (1)(b) is made available for inspection by members of the public during business hours at the address of any incorporated service unit.

The Hon. DIANA LAIDLAW: The Government supports the amendment.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 10, line 30—Leave out 'Chief Executive' and insert 'Minister'.

This amendment is consequential.

Amendment carried; clause as amended passed.

Clause 24—'General duties, etc., of directors and trustees.'

The Hon. BARBARA WIESE: I move:

Page 10, line 34—Leave out 'Government' and substitute'its'.

This amendment makes clear that there should be oversight and accountability for Government funds or any other funds.

The Hon. DIANA LAIDLAW: The Government accepts the amendment.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 11, line 2—Leave out paragraph (a) and insert the following new paragraphs:

(a) the incorporated service unit provides high quality health care to members of the public; and

(ab) deficiencies in the provision of health care are reported to the Chief Executive; and

(ac) appropriate strategic and business plans and targets are adopted following consultation with the community; and

This amendment provides for words that are more specific than those which are contained in the Bill and which concern the range of the board's responsibilities. The Bill tends to concentrate on efficiency and financial issues. We want to ensure that, among the board's responsibilities, its responsibilities for the provision of health care are also prominent.

One of the criticisms we have had all along of this legislation is that the Government seems to have taken a very organisational and financial view of health services and the provision thereof. Whilst we recognise that health services in our State must be provided in the most cost efficient manner and that proper account must be paid to financial management, prime amongst the considerations of the department and of the health units surely must also be the question of health care. We want to expand the list on that which is contained in the Bill to pay proper account to the questions of health.

The Hon. DIANA LAIDLAW: The Government has no quarrel with that. We have indicated that in the objects to the Act, and certainly the references to high quality health care are provided for in the constitution and service agreements between the Minister and respective incorporated service units. To then seek to ensure that the board must provide such health care to members of the public and report efficiencies in the provision of health care to the Chief Executive are matters that any self-respecting board member and board would undertake as their responsibilities. They are local people working on a regional basis addressing regional health care. They will hardly sit back and not fight for what is in the best interests of health within their region, and that is certainly required under various references to the functions of the board members.

We believe that paragraph (ab) is a let out for boards which assume that the Government will simply provide more money to meet growing demands regardless of the State's priorities. That will not be an issue that I will push at this stage; we generally think it is inappropriate and unnecessary.

The Hon. SANDRA KANCK: The wording of the clause is very businesslike—and that is to be commended—but it does not seem to have a great deal to do with health. I think it is a great idea to include something that reminds them that they are dealing with health, so I will therefore support the amendment.

Amendment carried; clause as amended passed.

Clause 25 passed.

Clause 26—'Directors' duties of honesty, care, etc.'

The Hon. DIANA LAIDLAW: I move:

Page 11—

Line 14—Leave out'Imprisonment for four years or a fine of $15 0000 (or both)' and insert 'Division 4 imprisonment or a division 4 fine (or both)'.

Line 26—Leave out'$15 000' and insert'Division 4 fine'.

This series of amendments seeks to express penalties in the more common drafting style of divisional penalties rather than in direct monetary terms.

Amendments carried.

The Hon. BARBARA WIESE: I move:

Page 11, after line 26—Insert new subclause as follows:

(5) It is a defence to a charge of an offence under this section to prove that the conduct alleged to constitute the offence resulted from a direction by the Minister.

The Hon. DIANA LAIDLAW: I am not sure how the honourable member envisages this working because I understand that it is not possible for the Minister to give an unlawful directive.

The Hon. Barbara Wiese: It is a possibility.

The Hon. DIANA LAIDLAW: It may have been in your Government; it is not in ours.

The Hon. Barbara Wiese: It is quite possible.

The CHAIRMAN: I presume it is 'knowingly'.

The Hon. BARBARA WIESE: This amendment seeks to provide a defence to any charge of unlawful conduct for individuals or members of the board should the action that they have taken be the result of a direction by the Minister. I am not suggesting it is likely that the Minister will give a direction that is wrong, but it is possible. We would expect any officer to follow the Minister's direction, but there ought to be a defence to such a charge in those circumstances.

The Hon. DIANA LAIDLAW: I am advised that even the Chief Executive is not able to give an unlawful direction. However, if it is to be challenged, redress will be through the courts. It is not a matter of defence for a board member,

because it would be addressed through a different avenue. I am advised that this is not necessary as it comes under the section relating to directors' duties of honesty and care. It is not seen as necessary legally because, if the directors have acted with reasonable diligence and care, they would not be held liable, anyway.

The Hon. SANDRA KANCK: I shall be supporting this amendment. I do not understand what the Minister has been talking about. I do not see that this is in any way saying that the Minister has given an unlawful direction; it is simply saying that on occasion the Minister will give directions. It could be that, as a result of such a direction, a director may find himself in court, and it is a defence for him to say, 'I was acting on a direction of the Minister.' I cannot see what unlawful directions have to do with it. The other area is the usual lawyer's picnic regarding a reasonable degree of care and diligence.

Amendment carried; clause as amended passed.

Clause 27—'Conflict of interest.'

The Hon. DIANA LAIDLAW: I move:

Page 11, line 34—Leave out '$15 000' and insert 'Division 4 fine.'

This amendment deals with divisional penalties.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 12, line 4—After 'board' insert 'and in the incorporated service unit's annual report.'

Again, this is about openness. This amendment provides that a disclosure made under this clause must be not only recorded in the minutes of the board but also included in the incorporated service unit's annual report. We are seeking to include this provision because it is not possible in all circumstances for people to obtain information for which they may be looking. I am sure that the Minister will tell me that board minutes are open to the public to read, but I can assure her that I am aware of an occasion recently when someone went to the Modbury Hospital seeking to read the minutes of the board and access was denied. Questions have been asked of the Minister for Health in another place about this matter, but as yet he has not brought back any responses. It is a matter of concern to us and to people who have approached the Opposition. Therefore, we would like access to this information to be provided by way of the measure that we are outlining.

The Hon. DIANA LAIDLAW: We believe that this is overkill in terms of procedures. We have indicated that they are to be recorded in the minutes of the board. I understand that no restrictions are provided under the Act or by the Minister or the Health Commission. The Modbury Hospital instance must have been a decision that was made at the local level. In terms of incorporated bodies, we would consider that that was appropriate in terms of what might be in the minutes. There may be certain information which, to use a term first coined by the Labor Government, may be commercially confidential in nature.

I remember that, in the past, my colleagues and I sought plenty of information from the former Government and were denied access to it for commercially confidential reasons. That may again be deemed a ground by an incorporated unit for not disclosing its minutes but, in general, no specific direction is given by the Minister, the Health Commission or the Act. We believe this further step is an overkill and certainly not necessary.

The Hon. BARBARA WIESE: It seems that the Minister is in conflict with her colleague in another place because my understanding is that the Minister in another place has indicated to the House that board minutes are open to the public to read. The Minister in this place is now suggesting that that may be undesirable because information could be contained in minutes that ought not be made public. That may explain why it is that the Minister has not yet responded to questions that have been asked in another place: he may well have misled the House in suggesting that minutes are open to the public.

If the information the Minister now provides is correct—that good reasons exist why minutes should not be made available for people to read—then that is even more reason why information relating to conflict of interest ought to be included in the incorporated service unit's annual report: it strengthens, rather than diminishes, the argument for this amendment.

The Hon. DIANA LAIDLAW: The honourable member is getting a little excited and we might have been here a little too long to suggest there is conflict. I am not the Minister for Health but I know the general areas for which I am responsible, and I am informed there is nothing determining this in the Act. That is what I said: there is no direction from the Minister and there is no direction from the Health Commission which says that minutes are to be withheld. I said that, in the case of an incorporated unit, whether it be Modbury or any other unit, the board of directors may deem it inappropriate to release a set of minutes.

It may be that the ground is one which your Government loved using: commercially confidential. That is all hypothetical because the honourable member raised an issue where the administrators of Modbury had apparently denied a request (I do not know what the request was) for such minutes. I speak from no knowledge of the situation other than to say that there is no blanket rule that they not be provided. To suggest or to read anything more into that is a pretty desperate effort to prove a point, and I am not sure what point the honourable member is trying to prove, anyway.

The Hon. Barbara Wiese interjecting:

The Hon. DIANA LAIDLAW: I am not missing the point; I am saying there are reasons why some actions were taken, and the honourable member's Government was master of it. From time to time boards do not disclose various matters and there are valid grounds which enable them to do that. We do not support the amendment.

The Hon. SANDRA KANCK: I find it surprising the Minister considers it overkill that the public should know that something is happening. In order for someone to make a request for minutes one would have to know that the disclosure had occurred. The chances are that most members of the public would not know that. The only way they would find out disclosure has occurred is if it is published and publicly available after the event as a matter of routine. The Minister's arguments about matters being commercially confidential do not have any validity—certainly not for me. Whatever the previous Government did, I am not bound by its example or its past.

I do not think the Hon. Ms Wiese is bound by that, either. If the former Government used those arguments then and, in Opposition, is not going to use them now, then I say that is an improvement in its attitude. It seems to me a very worrying trend that we can put commercially confidential decisions as having higher priority than the health needs of the public. I strongly support this amendment.

Amendment carried; clause as amended passed.

Clause 28 passed.

Clause 29—'Delegation.'

The Hon. SANDRA KANCK: Could the Minister give me an example or two of to whom the hospital board might be delegating and the sort of powers involved?

The Hon. DIANA LAIDLAW: It might delegate to the Chairman to act between meetings, which is not an uncommon practice of boards of directors. It might also delegate to the CEO to act in various financial matters, which again is not unusual.

Clause passed.

Clause 30—'Fees.'

The Hon. BARBARA WIESE: I move:

Page 12, line 19—Leave out all words in this line after 'The' and insert 'regulations may prescribe fees to be paid to directors of a specified class'.

The Bill as it stands provides for the Minister in appropriate cases to approve the payment of fees to a director. We wish to ensure that, where fees are provided for directors, they be provided by way of regulation and according to a specified class. Whilst the Opposition does not preclude the possibility of representatives being paid different levels of fees, we believe it is important that there should be specified classes or categories of fees that apply for the payment of members of boards. Therefore, we move this amendment. We are not trying to specify the basis upon which these various categories or classes of fees should be determined: they may be based on qualifications, or on the size or the level of responsibility being undertaken by members of a particular board; that is a matter that ought to be determined by the Government.

However, we do want to avoid a situation where the Government may choose to, say, play favourites with particular board members for one reason or another. It needs to be clear that there are categories of payment and levels of fees, and that all people are treated equitably with respect to the payment of fees.

The Hon. DIANA LAIDLAW: I support that sentiment, as do the Minister and the Government. I do not know what applied in the past, but Ministers today do not have any real discretion in respect of the payment of fees to a director or a class of director. This matter is determined by Cabinet on the basis of a recommendation from the Commissioner for Public Employment; there can be no capricious withholding of payment of fee by the Minister. On some of the boards in the arts portfolio groups of directors have decided that they do not want to accept the fee that is proposed; others take the payment they are entitled to. In the health area I understand that most of the boards are voluntary anyway, which has been a longstanding practice and a practice that sometimes makes it difficult to get the people you want serving on those boards. So, one of the main problems is the voluntary nature, not necessarily the overpayment, in this matter.

We oppose the amendment, not only on the grounds that I have given but because no other fees of this nature come to Parliament in this fashion. These fees, whether or not they are taken, are set on the recommendation of the Commissioner for Public Employment and determined by Cabinet, and the Minister does not have—nor should have—discretion in these matters.

The Hon. SANDRA KANCK: The Minister is saying that the Minister should not have discretion, but clause 30 provides that 'the Minister may, in appropriate cases'. That sounds to me as though he is exercising discretion anyway, and I would like to know what the appropriate cases are.

The Hon. DIANA LAIDLAW: When we say 'discretion', we are guided by the Cabinet guidelines, by the recommendations from the Commissioner for Public Employment, and you then have to go to Cabinet, anyway, and the approval would come following Cabinet consideration and the Minister's advising the approval. There are checks and balances all the way. In the health portfolio the Minister does not have the discretion to approve the payment just where it would apply; he has discretion about where it will apply, when it could be applied, rather than the level that is applied. One could say that it is appropriate in this instance but not in others; that is what is being suggested. It is not the level.

The Hon. SANDRA KANCK: Would that mean that some members of the board might be offered a payment and others not?

The Hon. DIANA LAIDLAW: That is the case now. Most public servants are not entitled to further pay as a member of a board, so on a board you can have those coming from the private sector, who are paid, and the longstanding practice that people who are public servants would not be paid again for their time off during the day or at other times for work on a board of this nature.

The Hon. SANDRA KANCK: What about members of the community?

The Hon. DIANA LAIDLAW: Members of the community can be paid. Some board members, even if they are entitled to be paid, may decide they do not wish to accept that payment; others are purely on a voluntary basis.

The Hon. SANDRA KANCK: Would the boards of all service units be offered a payment?

The Hon. DIANA LAIDLAW: It is not actually the question in terms of this amendment, but that would be for the Minister to decide, as is provided for in clause 30. The question that we are dealing with here is whether these fees should be prescribed by regulation or whether it should be on the basis of longstanding practice; that the Minister just does not have discretion, because they are set by Cabinet on the recommendation of the Commissioner for Public Employment. Where those set fees are applied is where the Minister has that discretion.

The Hon. SANDRA KANCK: Last year I attended a meeting at the Parks Community Centre addressed by the Minister for Health. He told that meeting that he wants to see more corporate style boards and more people with business acumen on them. If we are talking about people like, I presume, accountants and lawyers, what sorts of fees are we envisaging? It will take a lot of money, I would think, to draw them away from their quite profitable businesses to come to board meetings.

The Hon. DIANA LAIDLAW: It is a bit of an issue. That is why it is very important that the Commissioner for Public Employment sets the fees to guide the Ministers, and that all these fees are approved by Cabinet, so we do not have the situation where one board is offering a director 'the sky is the limit' in terms of fees, and other instances where it may be quite a reasonable recompense. I could provide more information outside of this debate to the honourable member on that subject.

The Hon. BARBARA WIESE: I must say I am encouraged by the remarks that the Minister has made about what she sees is the intention of this clause. As I understand it, the Minister has indicated that it would not be the intention of the Government to depart from the longstanding practice of accepting the advice of the Commissioner for Public Employ-

ment about the scale and level of fees for payment for directors of any boards and that the only discretionary issue is whether a particular board should or should not be the subject of payment of fees. That is encouraging to me and certainly would allay the sort of fear that has been expressed to the Opposition. Is the wording included in this clause the standard wording provided in other legislation with respect to the payment of fees?

The Hon. DIANA LAIDLAW: I will seek advice on that matter.

Progress reported; Committee to sit again.

[Sitting suspended from 1.4 to 2.15 p.m.]

PATAWALONGA

A petition signed by 129 residents of South Australia concerning the dumping of toxic sludge from the Patawalonga to Federal Airports Corporation land on Tapleys Hill Road at West Beach and praying that this Council will ensure that the moratorium of the Patawalonga dredging contract continues until such time as the following requests have been completed—

1. That an independent environmental impact study (EIS) and microbiological analysis of the Patawalonga polluted sludge be carried out immediately;

2. That the State Government give enforceable guarantees that the toxic sludge will not pollute the underground watertable or create any environmental health hazard problems for the residents and visitors, i.e. odours, toxic gases, dust pollution or contaminate the Glenelg/West Beach marine life environment—

was presented by the Hon. T.G. Roberts.

Petition received.

QUESTION TIME

HALLETT COVE EAST PRIMARY SCHOOL

The Hon. CAROLYN PICKLES: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about Hallett Cove East Primary School.

Leave granted.

The Hon. CAROLYN PICKLES: The Minister's answers to my questions concerning the sale of Hallett Cove East Primary School buildings raise many questions about how this sale has been managed by the Minister, the level of financial advice the Minister has been taking and who will profit from the new arrangements. This issue is not about attracting new capital to fund an infrastructure project, as was the case at Wood End, where the new school was funded and constructed by Hickinbotham. This is about public accountability for the sale of Government assets. I would like the Minister to give me an assurance that all the following questions are answered, in addition to the outstanding questions from yesterday, which related to whether C&G will issue a prospectus and the level of returns being offered to investors. My questions are:

1. What advice did the Minister seek on the financial benefits to the Government of this decision before approving the sale of these buildings, and what are the benefits?

2. Why were tenders not called for the sale and lease back of these buildings or tenders to manage the sale of these buildings?

3. At what price are the 11 buildings being offered to the public; how was the annual rental of $130 000 to be paid by the Government calculated; and who approved this rental?

4. What provisions are included in the lease for rent reviews and adjustments to the rental?

5. Is the Government negotiating to sell any other operating schools to C&G or to any other company, and what are the details?

6. Will the Minister table a copy of the lease agreement?

The Hon. R.I. LUCAS: I will take those questions on notice and bring back a reply. The financial analysis was done by officers of my department and approved by senior officers within Treasury who looked at the cost benefit analysis of this project and gave it the thumbs up.

ROAD TRAINS

The Hon. R.R. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question about road trains.

Leave granted.

The Hon. K.T. Griffin interjecting:

The Hon. R.R. ROBERTS: Would you answer the question?

The PRESIDENT: Order!

The Hon. R.R. ROBERTS: We know you know. In the past few weeks I have personally experienced an extremely worrying and unsafe situation on National Highway 1. Members would recall that road trains have been allowed on the highway south of Port Augusta as far as Lochiel for some months now. Despite assurances from the Government that passing lanes would be built between Port Augusta and Lochiel to provide safe overtaking areas, I can attest that it is often difficult to pass road trains in a number of areas for considerable distances along this road, despite the fact that the road train drivers are driving their vehicles in compliance with the Road Traffic Act and are universally courteous and as helpful as possible to other road users. However, even in good weather conditions it is almost impossible to pass two road trains travelling in convoy for many kilometres without the promised passing lanes.

I have received a response from the Minister to a question I asked on 22 March about the construction of the passing lanes, and in a media release on 13 June she announced that the Department of Transport had completed its strategic study of overtaking lanes. It is expected that Federal Government approval will be needed, and further discussion needs to take place. In wet weather conditions, as have been experienced in recent weeks, it has become impossible to pass the road trains at all. I have been contacted by a number of constituents from the Mid and Far North who have had very unpleasant experiences on this stretch of highway in recent times.

They explain—and I know it to be true—that the road spray from a single road train or two in close proximity makes it almost impossible to see the road ahead to ensure that it is safe to pass, even in conditions where the rain has stopped and the road is only slightly wet. This is exacerbated by some drivers choosing not to drive with their headlights on, and invariably an impatient driver will pull out and try to pass everything on the road ahead. I have personally witnessed many close calls which, but for the skill and vigilance of the road train drivers and other road users, could well have

been disastrous. In an endeavour to overcome some of the problems in this area, I therefore ask the Minister for Transport:

1. Will the Minister involve her department in research into better methods of controlling stone and road sprays from road trains and other larger vehicles?

2. Will the Minister introduce a regulation to require all vehicles using National Highway 1 between Port Augusta and Lochiel to drive with their headlights on in the interests of public safety until the promised passing lanes are built or the year 2000, whichever comes first?

The Hon. DIANA LAIDLAW: In answer to the first question, yes, I will involve the Department of Transport in such research involving stone or water spray from heavy vehicles in general, not just B-doubles or A-trains. With respect to the second question, the honourable member has sought a regulation that drivers use their lights on Highway 1 from Port Augusta to Port Wakefield. From Port Wakefield to Adelaide there is now a dual carriage highway. It may be that regulation is not necessary and that we may be able to do this by permit condition. I will have that investigated so that we can seek to incorporate a lights-on condition on any permit that is provided for an A-train or a B-double. Certainly, we have provided a number of conditions as part of the permits for this trial, which began on 1 December last. One is a 40 km/h limit through Port Augusta and initiatives such as that. So, I will determine whether it could be part of the permit condition rather than a regulation.

There is some difficulty in effecting these matters through regulation or legislation, because more will be required of heavy vehicles—and soon also light vehicles—in terms of national uniformity. Permit conditions rather than a legislative approach may be the best way to suit local conditions. I have been alerted to the problem of two road trains in convoy. I wrote to the South Australian Road Transport Association some weeks ago asking whether it would cooperate with the Government in informing road train operators to keep at least a vehicle length between the two road trains. They are operating, as the honourable member suggested, with great courtesy to road users generally.

There have been some instances of speeding, and I have personally written to the operators and issued warnings. To date, four companies have had permits withdrawn because their road train vehicles have been found to be speeding. So, I have taken a personal interest in the matter from that perspective. I have also, as I have said, written to the South Australian Road Transport Association and I have raised the matter with the National Road Transport Commission. The issue is important Australia-wide if there are to be more B-doubles and A-trains on our roads. I suspect that, over time, with the increased population and movement of goods, that will be the case.

I thank the honourable member for his questions. I have not yet heard back from the Federal Minister for Transport on our application for $1.2 million in Federal road funds this financial year for the first four passing lanes between Lochiel and Port Wakefield. The project, in terms of the 10 proposed passing lanes between Port Wakefield and Port Augusta, is estimated to account for $3.4 million. I have told the Road Transport Association that I am pleased with the trial to date, but I am not inclined, from 1 December, to extend that trial until those passing lanes—at least the first four—have been built between Lochiel and Port Wakefield.

There is some enthusiasm, because of the success of the trial to date, for me to give permission for A-trains to come all the way to Adelaide. As I have said, until those passing lanes—at least the first four—have been built between Port Wakefield and Lochiel, I am not prepared so to grant, either in wet or dry weather.

TRANSPORT SHELTERS

The Hon. T.G. ROBERTS: I seek leave to make a brief explanation before asking the Minister for Transport a question on shelter protection at taxi stands and bus stops.

Leave granted.

The Hon. L.H. Davis: Is it an environmental question?

The Hon. T.G. ROBERTS: Actually, it is an environmental question. As I make my explanation and ask my question, the honourable member will see the linkage. We are all aware that the number of bus passengers is dropping off and that several people are turning their mind to ways in which the public can be encouraged to use public transport. I asked a few people in the southern and northern regions why they were not using public transport. Although there were several reasons for it, the constant theme was that in cold, wet weather, standing at bus shelters waiting for buses was a problem. Sometimes, shelters were full quite early and, if people did not get to a shelter there was a danger of their getting wet. In the summer, the converse applied: they stood in the heat of the sun and felt uncomfortable waiting for buses.

Suggestions were made—they are inherent in my question—that if suitable trees, bushes and other shelter could be provided there might be an amelioration of some problems associated with standing and waiting for buses. It was suggested that, if the Government could look at providing suitable trees, bushes and shrubs that did not impact on surrounding neighbours or on drains or culverts—I know that it is very hard to find suitable varieties—and did not cause road safety problems and other difficulties because of overhanging branches, it might be possible for such trees to be grown, particularly in the outer suburbs. Will the Minister, with local government and community consultation, investigate the possibility of growing suitable native trees and bushes at taxi stands and bus shelters, with the intention of providing shade and shelter?

The Hon. DIANA LAIDLAW: I welcome the honourable member's efforts, through his survey, to assess measures that can be taken to encourage more people to travel on public transport. My own research suggests that shelter is a particularly important issue for the Government to address. Our passenger transport policy contained a commitment that we would work with local councils to consider bus shelters plus information at bus stops and railway stations.

Bus shelters are almost uniformly the responsibility of local councils, except on transit link routes. Likewise, on such routes, bus stops and information at those bus stops are the responsibility of TransAdelaide, which is being transferred to the PTB. We must work with local councils to get more shelter.

The honourable member may have noted yesterday that Adelaide City Council launched the first of 50 new bus shelters in the city of Adelaide. It has been hard going getting the council to make such a commitment. It was particularly concerned about advertising at bus shelters. Eighteen months or so ago, it decided that it would not provide such shelters. My own view is that sympathetic advertising can and should be encouraged because shelters are particularly important in terms of providing public transport in our city.

A bus stop shelter working party within the Passenger Transport Board was established just last week. I will meet that group in the next few weeks because I want to encourage it and local government, which is also represented on the working party, to consider bus stop shelters, and to do so urgently as part of our endeavours to get more people back on to public transport.

The issue of trees and bushes is difficult. They provide good shade as shelter in summer, but, if it rains in winter, trees drip, and people often find that standing under a dripping tree is worse than standing in the rain. Bushes at bus stops are a problem because of the safety question. At interchanges generally, many bushes have been removed because they provided cover for flashers and other people who engage in horrible behaviour. Many of the bushes have been removed, and TransAdelaide is considering a new type of planting and more trees. So, bushes are not popular for shelter or for security.

PLANNING LAWS

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Housing, Urban Development and Local Government Relations, a question about planning laws.

Leave granted.

The Hon. M.J. ELLIOTT: There is great concern in many quarters about the State Government's use of interim effect for plan amendments to allow development applications to proceed before the normal public consultation and appeal processes are complete. One example recently brought to my attention was the Government's decision to grant an interim authorisation of the Mount Barker council's Rural Living Review Amendment. Although this has raised several issues which require greater scrutiny, I will focus on only a few of major importance. I have been approached by local residents who are concerned that Mount Barker council's request for the interim order was granted by the Minister for Housing, Urban Development and Local Government Relations in August 1994 in contravention of section 53 of the Development Act. There is concern that the council's application for the interim authorisation failed to show just cause under section 53 for the need for the order—an order which has locked the local residents out of any public consultation or development applications which followed the order.

The Government's granting of the interim authorisation has allowed a developer, XOR Corporation, to apply to subdivide 70 hectares of land into 173 residential allotments, making public consultation and appeals irrelevant. Should the plan be rejected or amended that will not impact on the developer. The Minister is aware that the intention of the interim effect is to stop inappropriate developments from occurring while a planned amendment is being considered rather than to allow a development that may not later be permitted. I am told that locals were never made aware that XOR Corporation had requested and paid for the review amendment, that the review was carried out solely because of the rapidly growing population or that the interim authorisation was a State Government initiative.

The only significant consequences of the interim authorisation were to speed up a private development while rendering public opinion irrelevant. There was also concern that the Minister took six months and three days to present the report to Parliament on the interim order while section 28(3) of the Development Act provides that he must present this report as soon as practicable. My questions to the Minister are:

1. Will the Minister reveal why he granted the interim authorisation for the Mount Barker Rural Living Review Amendment in August 1994?

2. Is the Minister aware that the decision contravened section 53 of the Development Act?

3. If the Minister is aware, will he say why was this done? If not, what reason does the Minister give for not examining the basis of the decision?

4. What will the Minister do to rectify the situation?

5. Why did it take the Minister so long to present to Parliament the report on the granting of the interim authorisation?

The Hon. DIANA LAIDLAW: I will refer the honourable member's question to the Minister and bring back a reply.

STATE SLOGAN

The Hon. BARBARA WIESE: I seek leave to make a brief explanation before asking the Minister for Transport a question about the State logo.

Leave granted.

The Hon. BARBARA WIESE: During the years of my youth women were often reminded by their parents and others that nice girls do not go all the way. Of course, the young men with whom many of us went out at the time often tried to convince us otherwise. Now it seems that the times have changed and that the Government wants us to advertise on our car number plates that we are prepared to go all the way. As this phrase has sexual connotations for many people within our community who find the State logo offensive—and I know they find it offensive because the Opposition has received telephone calls today, particularly from women, along those lines—

Members interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: How about a bit of protection, Mr President?

The PRESIDENT: I will give the honourable member some protection. Members should cease interjecting.

The Hon. R.I. Lucas interjecting:

The PRESIDENT: Order!

The Hon. BARBARA WIESE: As for other people, the phrase means very little. I ask the Minister whether she will guarantee that all South Australians will be given the right to choose whether or not this logo appears on their number plates, as is the case in some other States with State logos?

The Hon. DIANA LAIDLAW: The logo will be unveiled by the Premier next week. Choice is available now with a number of different numbers plates available for purchase. I am keen to see further choice available in that area. In relation to any specific theme adopted by the State in terms of positive promotion of the State, I will make further inquiries.

AYTON REPORT

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Attorney-General a question about the Ayton report.

Leave granted.

The Hon. ANNE LEVY: Yesterday, the Attorney tried to hose down the implications of the improper disclosure of the 1991 Ayton submission to the NCA committee. In his long answer the Attorney chose not to comment on the propriety or otherwise of his tabling in this Parliament a document which was known to be highly sensitive and which was an action that attacked the parliamentary privilege of a joint committee of the Commonwealth Parliament. If the Attorney wants to persuade us that there is no cover-up at all on this issue, will he tell us who gave him the specific copy of the Ayton submission which he tabled in this Council in March 1993 and what that person said to him about the document when it was given to him?

The Hon. K.T. GRIFFIN: My understanding is that the Hon. Ron Roberts refused to ask the question because yesterday he received a response which was probably unexpected. He probably had not thought that I would have read the report but I had and, quite obviously, he had not read it. Had he done so—

The Hon. R.I. Lucas: Anne Levy was the only one silly enough to ask it: that is what he told his colleagues.

The Hon. K.T. GRIFFIN: I do not seek to make any reflection on the honourable member for asking the question. Members opposite have obviously not read the report, because if they had done so they would see that there was no criticism of the Premier, the Deputy Premier or me: the fact is that there was no criticism. The advice which was—

The Hon. R.R. Roberts: We want to know who gave you the report.

The Hon. K.T. GRIFFIN: You would like to know lots of things but you will not find out a lot of things. There are a lot of things in this life—

The Hon. R.R. Roberts interjecting:

The Hon. K.T. GRIFFIN: No, I am answering the question.

The Hon. R.I. Lucas: The honourable member is courageous now that Anne Levy has asked the question.

The Hon. K.T. GRIFFIN: It was interesting yesterday—

The Hon. R.I. Lucas: You stand behind Anne. You won't ask the question. You get her to ask it, and now you do the interjecting.

The PRESIDENT: Order! The Leader on my right will desist.

The Hon. K.T. GRIFFIN: It is quite obvious if you look at the Hon. Ron Roberts's explanation yesterday that he was trying to take things out of context. He was trying to weave this artificial web. He was seeking to—

Members interjecting:

The Hon. K.T. GRIFFIN: Let me get to that in a minute. It was clear from the way in which the Hon. Ron Roberts had had the explanatory statement put together for him yesterday that he was trying to weave an artificial web of intrigue. The fact is that he took a lot of what was in his explanation out of context. He knows it was taken out of context: he tried to cast aspersions on Mr Chris Nicholls. If he had read the report he would have seen that Mr Nicholls made some statement to the Senate Committee of Privileges. Let me read what the Senate report says about that. Paragraph 2.11 states:

> As indicated in the introduction to this report, the Committee made contact with Mr Nicholls. Initially, he advised that he was unable to assist the Committee. Subsequently, in responding to specific written questions from the Committee, he advised that he had received a document which may have been a copy of the submission while working on a freelance assignment with the *Australian* concerning the issue of Australian casinos.

The Hon. M.J. ELLIOTT: I rise on a point of order, Mr President. Under Standing Order 186, clearly this answer is irrelevant. The Attorney is not answering the question that has been asked. He is talking about a question that was asked yesterday.

The PRESIDENT: There is no point of order. You know as well I do that I can control the questioner, but I cannot control the answer.

The Hon. Anne Levy: Yes, you can.

The PRESIDENT: Order! I cannot control the answer. In fact, the Minister, or whoever is answering the question, does not even have to answer the question.

The Hon. K.T. GRIFFIN: I will continue the quotation from the report. The Hon. Mr Elliott's interjection, I agree, Mr President, did not—

The Hon. M.J. Elliott: You are wasting Question Time.

The Hon. K.T. GRIFFIN: I am not wasting Question Time. If you want to ask these things and cast aspersions on me, you will get the answer that I want to give: it is as simple as that.

Members interjecting:

The PRESIDENT: Order!

The Hon. K.T. GRIFFIN: If you want to take things out of context, that is your problem, but you must expect me to try to put them back into context. Yesterday in his explanation the honourable member tried to weave a web of artificial intrigue, and it did not stick; he took things out of context. The Hon. Anne Levy is trying to compound that by again making assertions of a cover up. That is absolute nonsense. Sure, they can—

The Hon. R.R. Roberts interjecting:

The PRESIDENT: Order! I warn the Hon. Ron Roberts.

The Hon. K.T. GRIFFIN: The fact is that in the report of the Senate there was no criticism of the position that the then Leader and Deputy Leader of the Opposition (now Premier and Deputy Premier) and I took. It is clear that there was no cover up; we were asserting what is the law. I will go back to another part of the report. It states that there was a letter from me to the Chairman of the NCA Committee on behalf of myself and the now Premier and Deputy Premier refusing to discuss further or disclose the documents. Paragraph 1.6 states:

> In refusing the NCA Committee's request, Mr Griffin advised that 'unless authorised and directed by the South Australian Parliament, the South Australian Ministers could not be required to, and will not, give evidence to the Joint Committee in relation to any aspect of the receipt or disclosure of the documents'. This advice accords with similar advice given to Senate committees, and with the advice given to the NCA Committee by Mr Dennis Rose, QC, then acting Solicitor-General.
>
> 1.7. The Committee of Privileges was also mindful of the majority report of the then Constitutional and Legal Affairs Committee which declared that the privileges of State parliamentarians could not be overridden by the Commonwealth (Parliamentary Paper No. 235 of 1985).

That puts that to rest. Continuing the point in relation to Mr Nicholls from paragraph 2.11 of the report, it states:

> While he could not recall the date on which he received the submission, his contact with the NCA Committee secretariat suggested that it was before the documents were tabled in the South Australian Parliament. He advised this Committee that he had no idea about the status of the submission, nor where it came from, and indicated that 'because of the uncertain status of the document and its authenticity, it was not published by the *Australian* newspaper.'
>
> 2.12. In response to the Committee's question as to whether he was in any way involved in documents being passed to members of the South Australian Parliament, he responded that 'he did not pass this document [that is, the submission he received] on to any member

of the South Australian Parliament.' The Committee sought further clarification from Mr Nicholls, who advised on 26 June 1995 that the documents were destroyed about one to two months after he had received them. Mr Nicholls also advised that he had not provided access to any other person. The Committee notes that it is possible that the person or persons who transmitted the submission and covering letter to Mr Nicholls used the same method to transmit the documents to members of the South Australian legislature.

I am not sure how the documentation was finally received by the South Australian members of Parliament. As I indicated earlier, the fact is that the Senate Committee made no criticism of me, the Premier or the Deputy Premier. I think that the Labor Party is pretty weak and lacking in any aspect of resource and imagination if it thinks it can rehash the past and reinvent the history of this matter.

TOBACCO REVENUE

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services, representing the Treasurer, a question about tobacco tax.

Leave granted.

The Hon. T.G. CAMERON: Currently a price war is taking place in the tobacco industry. This price war has resulted in substantial discounting of the price of cigarettes. One would have thought that the Liberal Party would be delighted to see free enterprise market forces and competition at work. We are constantly reminded that competition and market forces should be allowed to take place, because it results in lower prices to consumers. So we have a situation that is entirely consistent with Liberal Party philosophy.

Tobacco consumers, who have been hit with savage tax increases by all Governments in recent years, are now benefiting from the interaction of competitive forces within the marketplace. However, it would appear that the discounting war has had some impact on State revenues, and I understand that the Treasurer has threatened to impose further taxes on cigarettes to recover these lost revenues. Cigarette taxes, because of the way that they operate, impact on lower and fixed income groups much more than on higher income groups. If the Government increases taxes during this price war, what happens when the price war is finished? Will cigarette prices return to their previous levels or to a higher level because of the imposition of increased taxes? One cannot imagine the Government will reduce the tax once the price war is over. My question is: will the Treasurer give an undertaking not to use this chance to increase the cigarette tax or change the way that the tax is imposed?

The Hon. R.I. LUCAS: I will refer that question to the Treasurer and bring back a reply.

SCHOOL BUSES

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Transport (although I think the Minister for Education and Children's Services might have some interest in it) a question about the Department for Education and Children's Services school bus services.

Leave granted.

The Hon. SANDRA KANCK: In many rural areas of the State the Department for Education and Children's Services (DECS) provides buses for schoolchildren. DECS owns a number of school buses which provide about half of the existing services, while private contractors, having leased or purchased buses from DECS in many cases, provide the other half. I have been told that the department is pushing for all remaining DECS buses to be sold and for private contractors to supply all school bus services in rural South Australia. This is despite being presented with a submission from DECS Transport putting a strong case for the retention of school buses by the department.

Most of the older school buses have been sold, some for as little $8 000, with new buses costing about $130 000. Given the difference in price between the old and new buses, most private operators would find it uneconomic to buy a new bus for school runs. At present a number of private contractors have 25-year-old buses, once owned by DECS, and they have been granted special extensions for their use by the Passenger Transport Board. Therefore, it is unlikely that South Australian schoolchildren will have the benefit of travelling in modern buses if the fleet is privatised.

In New South Wales the Government transports all children to school regardless of whether they live in the country or the city, and experience in Victoria, with the contracting out of school bus runs, has seen costs rise substantially. Indeed, costs in Victoria—

The Hon. M.J. Elliott interjecting:

The Hon. SANDRA KANCK: That is right—are already higher than DECS operated buses here. Contract buses generally have daytime bookings to keep them viable as private businesses and are not available for other school uses. Consequently buses cannot be booked for school excursions because they cannot be fitted into the private contractor's other commitments. Reductions in curriculum choice is already a huge concern for rural families, and any further reductions in school services for rural students will see more families considering joining the drift from the country to the city. Providing Government-backed school bus services is one facility the Government can deliver which helps to retain families in rural South Australia. My questions to the Minister are:

1. Can the Minister say whether or not the Government will privatise the existing DECS school buses and cause private contractors to take over the services?

2. If so, can the Minister give a guarantee that country students will not be disadvantaged in terms of daytime excursions if the Government goes ahead with this proposal?

3. Will the Minister table a copy of the submission about school bus services prepared for her by DECS Transport?

The Hon. R.I. LUCAS: The question is within my portfolio responsibility. The information provided to the honourable member is wrong: neither the Minister nor the Government has taken a decision to sell all private bus services.

GARIBALDI SMALLGOODS

The Hon. T. CROTHERS: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about the Garibaldi affair.

Leave granted.

The Hon. T. CROTHERS: Recently, in response to a freedom of information request to the Health Commission by the Leader of the Opposition for documents concerning the handling of the Garibaldi mettwurst health crisis earlier this year, the Health Commission has belatedly provided some of the documents requested, but some documentation appears to be missing from the bundle of documents provided to the Opposition. Even more seriously, the Health Commission has

contemptuously, in the view of the Opposition, ignored a request from the Ombudsman to have all requested documents sent to the Ombudsman for assessment. In relation—

An honourable member interjecting:

The Hon. T. CROTHERS: This is a serious matter—very serious. A four year old child died as a consequence of this. In relation to the HUS crisis brought on by the distribution, sale and consumption of contaminated mettwurst produced by the Garibaldi smallgoods company, which went on for about 10 days after the source of the contamination had been identified, it should not be forgotten that the Minister for Education and Children's Services was Acting Minister for Health in the crucial 48 hours or so after the source of the contamination had been identified.

I therefore direct my question to the Minister for Education and Children's Services: did the Minister take any notes or prepare any documents whatsoever in relation to this matter, and did he have any meetings or discussions whilst he was Acting Minister for Health in January this year?

The Hon. R.I. LUCAS: I can certainly check the detail but, to answer the honourable member's question, I certainly prepared no documents. I have indicated before that I had a meeting two or three hours before I publicly released a recommended text of a press statement in relation to the issue that Monday afternoon of whatever date it was, but I certainly did not produce or prepare any documents.

The Hon. T. Crothers interjecting:

The Hon. R.I. LUCAS: I know for a fact that I did not produce or prepare any documents.

The Hon. Carolyn Pickles: Were any notes taken?

The Hon. R.I. LUCAS: I did not take any notes. I had a meeting, informed myself thoroughly, took advice from the health experts, made a decision and, as I said, two or three hours later issued the public statement.

VETLAB

The Hon. M.S. FELEPPA: I seek leave to make a brief explanation before asking the Minister for Transport, representing the Minister for Health, a question about Vetlab funding.

Leave granted.

The Hon. M.S. FELEPPA: Three very responsible people in the veterinary field expressed concern for the future of Vetlab in a letter to the *Advertiser* some time ago. Vetlab provides a vital service in the field of veterinary science in South Australia. The letter in the *Advertiser* states:

> The workload of Vetlab is large and wide ranging. The public expects (and receives) rapid and expert diagnosis from Vetlab at all times. In addition to disease outbreaks, such as the recent mettwurst food poisoning in children and blindness in kangaroos, it includes disease diagnosis in the fishing industry (a major source of revenue for SA), exotic disease monitoring, diagnosis in livestock and much routine pathology and microbiology of animals. Documentation and testing for overseas exports of stock are regularly done at Vetlab.

It is reported that the Government is about to cut the funding of Vetlab by about $700 000, and this will necessarily mean a drop in the level of service Vetlab can provide. Staffing levels have been reduced from 53 to 32 in recent years and the proposed cut will mean a further loss of 10 in staffing. The impression of a number of concerned people to whom I have spoken in the past few weeks is that the Government does not care about the quality and level of service that Vetlab will be able to provide. My questions to the Minister are:

1. Will the Government be cutting the funding to Vetlab?

2. Does the Government expect that the vital service provided by Vetlab will continue without adequate staffing and funding?

3. Does the Government intend to privatise the service currently provided by Vetlab in a competitive field of service providers, and what is expected to be the cash saving, if any?

The Hon. DIANA LAIDLAW: I will refer those questions to my colleague in another place and bring back a reply.

RURAL INTEREST RATES

The Hon. R.R. ROBERTS: I seek leave to make an explanation before asking the Attorney-General, representing the Minister for Primary Industries, a question about the effects of interest rate rises on farmers.

Leave granted.

The Hon. R.R. ROBERTS: Members would be aware of the difficulties caused to South Australian farming communities by fluctuating interest rates over the past decade. The Hon. Caroline Schaefer, in her report to the Eyre Peninsula Strategy Group, noted how greatly the Eyre Peninsula had suffered as a result of high interest rates. The Hon. Ms Schaefer, and indeed you, Mr President, would well know what difficulties interest rate rises have caused in the past to people on the Eyre Peninsula and what heartbreak it has caused to communities and individuals who have seen their livelihood taken away from them.

I know that many rural communities point to the Federal Labor Government and accuse it of being the villain when it comes to interest rate rises, and perhaps there may well be an argument that the Federal Government has, at different times, contributed to interest rate rises. However, there can be no doubt who was responsible for the raising of the interest rates of rural adjustment loans administered by Primary Industries South Australia. Since coming to power in South Australia, the Brown Liberal Government has twice increased interest rates on those loans in what has been described by many as usury.

The first rise was in October 1994 when rates were increased from 6 per cent per annum to 8 per cent per annum. At that time the Minister for Primary Industries stated that rates would be reviewed annually. A little over nine months later the Minister has again increased the rate from 8 per cent to 10 per cent, that is, the rate has increased from 6 per cent in October last year to 10 per cent from 15 July this year. That is a four percentage point increase in just nine months—a burden that has been placed directly on the backs of the poorest farmers in South Australia. Quite frankly, the Hon. Ms Schaefer and others who claim to represent rural interests in this Parliament should hang their heads in shame. My question to the Attorney-General representing the Minister is: How does he justify this disgraceful act of usury against struggling South Australian farmers?

The Hon. K.T. GRIFFIN: There was a lot of comment and opinion in that, which I do not accept, and some very colourful language. It is probably the pattern of the honourable member's explanations these days because he cannot get publicity in any other way. I do not think that anyone will be deluded by the colourful explanation but will go behind it to see what the substance of the question really is. Obviously, I will refer this to the Minister for Primary Industries in another place and bring back a reply.

CHEMICAL SPRAYS

In reply to **Hon. R.R. ROBERTS** (7 June).

The Hon. K.T. GRIFFIN: The Minister for Primary Industries has provided the following response:

1. Officers of my department have approached the issue of the use of chemical weed control agents in a manner which has fully addressed the questions of environmental impact, safe operating procedures and application techniques to ensure confinement to the target areas.

Investigative work has been carried out by the department over a long period of time. The details of this work, its importance to the establishment of health and productive plantations and the studies that have been, and are being, conducted to refine the responsible use of chemicals, are indicated in the following report which has been prepared by the principal scientist for Primary Industries SA (Forestry).

Use and Importance of Chemical Agents
Used in Forestry Plantations
in South Australia

This approach is founded upon 115 years of practices in which weeds were cleared around trees and 34 years of use of residual herbicides (e.g. atrazine), which were a major break-through, in pine plantations in three regions of South Australia where the climate and soils are favourable for commercial forest plantations without complaint or contention until the incident at Bundaleer Forest in 1994, mentioned in the statement. The State forestry agency has been a pioneer in all aspects of research connected with weed control options in radiata pine plantations.

At this point it is worth pointing out that none of the chemical plant control agents used in State forests is eligible to be classed as a scheduled poison.

Prescriptions used have been based on scientific evidence obtained as results from statistically-valid replicated research trials into the impact of weed control intensity and alternative methods, on radiata pine productivity, both in the short-term and the long-term. Trials of chemical agents currently used began in 1961 in the plantations of the Mount Lofty Ranges, entered general practice in 1963, and this extended to the North and the South-East regions in 1967. Data from these trials was used to acquire registration of use under the Agricultural Chemicals Act. Research continued to establish best practice following the discovery of the major importance weed control had in the sustainability of wood production on second rotation sites at replanting.

A wide range of potentially-useful herbicides and mechanical methods was investigated in the period 1966 to 1974. These studies indicated that the triazine herbicides held a special value in not only controlling weed growth sufficiently to optimise growth rates of young trees but also to stimulate their metabolism. Research in co-operation with CSIRO Division of Soils attempted, with only limited success, to isolate the processes involved, but the effect was substantiated. Recommended dose rates in current practice within the agency have been based on capture of 85% of the combined effect. Importantly, the productivity gained was found to persist for at least 16 years into the rotation. It amounted to a lift of about $6m^3$/ha/year on average annual growth. This represents a gain of over 30% on marginal soils and more than 20% on the better range of sites.

Weed competition control is a critical and integral precursor to the efficient use of other practices when growing plantations of radiata pine and blue gums in the South Australian climate, as will be shown. This fact cannot be over-emphasised. However, it is not carried out in practice for more than the first two years of any rotation of pines, i.e. in not more than six years in any century.

The potential for weed problems is assessed a few months before afforestation and included in the planning process Use of chemical agents is of two kinds. There are general purpose prescriptions which are aimed at controlling the several weed species common to either first-rotation pasture sites or those of replanted sites—each has a typical suite of weed species. The current general weed control prescription, which is not mandatory, contains atrazine and hexazinone. In addition, and normally preceding use of a general prescription, specific remedies may be aimed at weed species requiring special attention, such as bracken fern. In the case of bracken fern, the project took over 12 years to complete scientifically-designed experiments before the choice of chemical agents and dose rates was settled.

The choice of chemical agents to investigate in the first place has been based on screening information already existing in the world literature with respect to operator safety factors, environmental behaviour and the suite of plants expected to be controlled or insensitive to the chemical. No chemical agent which was judged likely to be a hazard within the group's activities was pursued.

Atrazine has been the subject of concern overseas and in Australia in the last decade because annual use in agriculture has led in some instances to a gradual accumulation in subsoils and eventual leakage into water supplies. Surface run-off incidental to heavy rains shortly after applications is a risk that can occur in relatively rare circumstances; it applies to both agriculture and forestry use, the extent of any hazard dependent upon a combination of dose rates and catchment size affected. A few instances have occurred within State forest sites and the lessons to prevent a recurrence have been taken.

The formulations of chemicals used in applications has also been researched in the State forests and use of custom-designed granule application, first from aircraft, and subsequently from ground-based machines to eliminate the risks of spray drift was initiated in the South-East in 1985 and benefits to worker and environment safety besides operational costs and precision in applications were achieved. So good was the latter that strip spraying with gaps between rows was tested in trials using helicopters from 1992. Patterns of application (spots around trees, strips of various widths along rows) have been investigated to measure tree growth response relative to dose rate and quantity of weeds retained—on two occasions, in 1979 and recently 1991-94.

Until 1990, the off-site hazard evaluation was based on overseas research, the use of sophisticated models of chemical behaviour in soils over time, rainfall and decomposition of the chemical through natural means. In 1990 a survey was conducted in the South-East of South Australia by the CSIRO Division of Water Resources. This survey included, among a range of land-uses which included atrazine, four plantation sites considered by the State forest research staff to represent the worst-case situations for leaching of the chemical to watertables. Only one of four sites chosen as 'worst-case' locations within a major plantation area yielded traces of atrazine in groundwater. The level did not exceed US EPA water guidelines. There is also the likelihood that this was a local, perched watertable and that it was not was part of the regional watertable.

Local research into the fate of the most widely used chemical agent, atrazine, under scientific controlled conditions and full instrumentation, began in a field trial established in 1991 at Caroline Forest. This was the first trial of its kind in Australian forestry. Results were obtained when atrazine was applied at recommended rate and at double that rate. The soil, a podzolised sand, was highly susceptible to leaching possibilities. Findings showed that only one-third of the chemical agent was detectable in the soil, that peak quantity took 15 to 30 days to occur, and that degradation of the chemical progresses significantly from that time, in accordance with expectations. There was no indication from it of penetration of atrazine beyond 90cm depth, even when evidence of soil macropores (old root channels and fissures) was present. Both the soil solution and soil fabric were sampled and analysed up to 8 months after application. Sampling took place down to 2 metres depth; no watertable was ever present in the soil. Trials such as this verify the models which have been used. On this basis contamination of groundwater in areas adjacent to South Australian forest sites is considered very remote indeed. In the case of lucerne mentioned in the statement, the State forestry experience of attempting to afforest former pastures sown with lucerne, is that this species is highly resistant to atrazine+hexazinone mixtures used.

The knowledge base available to forest managers is embodied in the SA Forestry Manual Volume II. The manual is up-dated after significant research has been considered suitable for adoption, and at periodic workshops at which staff discuss operational matters. This review is an on-going process.

A highly responsible approach to use of chemical agents has always been pursued right from the start of considerations for their potential use. Forestry is a minor market for these chemicals which are used very widely in agriculture and non-crop situations. Forestry dose rates which are cost-effective tend to be closer to non-(Field) crop use dose rates; but all of these have to meet environmental use guidelines and are subject to registration under agro-chemicals legislation.

New developments in the use of forest plantations for mitigation of land degradation and re-use of sewage and rural industry effluents are also considered in relation to tree growth targets, water quality and cost-effective weed control systems.

The cost of penalties likely to be suffered by pine plantation forest owners in SA with respect to a range of alternative silvicultural practices if atrazine is no longer available has been estimated in

relation to a proposal put forward in December 1993 by the newly-established National Registration Authority for Agricultural and Veterinary Chemicals. They show both apparent net present value per hectare established in a given year (NPV) discounted to the start of the pine rotation, and the compounded value in 1992 dollars for that average year's plantations over the average rotation length in the State.

The reduction in value includes both loss of productivity (lower site quality on average, in forestry terms) and increased cost of alternative materials or mechanical procedures. This latter is not trivial in South Australia because almost all sites are being replanted and occupational health and safety risks are greater as well requiring costly, large and robust equipment.

The reduction in value of the South Australia estate (public and private) ranges from $15m minimum if atrazine can be replaced by an alternative chlorotriazine, to $59m for the most effective alternative without triazines at all, to reach a range between an estimated $75m to $86m for control using either the safest non-residual herbicide or, a single residual, but less selective and riskier herbicide at higher than desirable rates. These represent reductions at constant dollar values, of 12%, 48% and 60% to 72% of the value of the estate managed with current 'best practice'.

The forest industries in South Australia are limited by the supply rate of the wood resource, which is restricted by a fixed land-base. Any significant loss of productivity would impact directly on raw material supply to the State's forest industry. Escalation in costs of timber production would also be considered to be detrimental to economic performance and contribution to the State's economy.

2. PISA Forestry has a process in place that requires local officers to inform adjacent landowners of any activity that may impact on their property. This is rigorously followed and was the case at Bundaleer Forest referred to by the honourable member.

Mr Malone was not included in this notification process because his property does not adjoin the forest where the weed control work was being conducted. Mr Malone did not indicate to local officers that the nature of his farming enterprise was potentially sensitive to the use of chemicals. Had the responsible officer been aware of this circumstance, Mr Malone would have been notified of the weed control work.

All parties involved are now aware of the situation and in future appropriate notification and consultation will take place.

SCHOOL BUSES

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about school buses.

Leave granted.

The Hon. M.J. ELLIOTT: In answer to a question asked earlier the Minister for Education and Children's Services said that there was no plan to privatise all the buses. He did not give further detail. The Minister was present recently at a conference I also attended of country schools, where it was a matter of grave concern that, with schools not having DECS-owned buses, the cost of excursions would become prohibitive and in many cases would simply stop and they would miss many opportunities that too many country schools miss out on already. Will the Minister give more detail as to precisely what plans he has in relation to privatisation of school buses? Does he intend that there will, in fact, still be a significant number? If so, how many DECS-owned buses will be readily accessible to country schools?

The Hon. R.I. LUCAS: I said that no decision had been taken to privatise all school buses; no decision has been taken on the Government's intentions in this area in relation to any percentage number or to any number. At the moment we have a situation whereby approximately half the school buses are provided by private contractors. I have heard some of the concerns the Hon. Mr Elliott refers to, but one needs to bear in mind that half our services are currently provided by private contractors. Despite all these alleged concerns about massive price hikes, private buses have been operating in country areas for decades. As I said, for years we have had 50 per cent private contractors.

Over that period people have managed to have private excursions without exorbitant price rises or the sorts of concerns to which the Hon. Mr Elliott refers. I can only repeat what I said to the honourable member's Deputy Leader when she first asked the question; that is, no decision has been taken to privatise all the bus services—

The Hon. M.J. Elliott interjecting:

The Hon. R.I. LUCAS: We will consider it and in due course will make a decision.

BLANCHETOWN WEIGHBRIDGE

The Hon. G. WEATHERILL: I seek leave to make a brief explanation before asking the Minister for Transport a question about Blanchetown weighbridge.

Leave granted.

The Hon. G. WEATHERILL: During the 21 June 1995 Estimates Committee the Minister was asked a question about overloaded trucks, which concerned the residents of the Blanchetown area. The Minister's reply was, 'We will make sure that the Blanchetown weighbridge is staffed 24 hours a day every day for trucks going and coming through that weighbridge area.' This was roughly a month ago, and now we find that the weighbridge is not staffed 24 hours a day. It was stated in the *Advertiser* by the Minister on 6 July 1995 that it was staffed 24 hours a day. Now we find that it has not been staffed 24 hours a day. Has the policy changed since the Estimates Committee, and what is happening in relation to this weighbridge?

The Hon. DIANA LAIDLAW: The date set for the weighbridge to be staffed 24 hours a day is the 29th of this month. That date has been fixed by the department and will be adhered to. Resource implications have had to be addressed. We have never seen the need to be alarmed about the status of the Blanchetown bridge. The chances of anything happening in terms of bridge breakdown is one in 4 000 years. Only if two grossly overweight vehicles of double the weight allowed on the bridge now (up to about 85 tonnes and above), travelling in opposite directions at the same time, hit the same weak spot would there be damage to the bridge. The chance is extraordinarily remote. Notwithstanding that, alarm has been generated in the community, albeit not by the Government, because there is no cause for such alarm; but it is there. For that reason the Government has decided to take the additional precaution of staffing this weighbridge. As I indicated, it will be staffed for 24 hours a day from the 29th of this month.

THE GEN

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister for Education and Children's Services a question about *The Gen*.

Leave granted.

The Hon. ANNE LEVY: I am sure that the Minister is aware of the publication called *The Gen*, produced by the Commonwealth Department of Employment, Education and Training, although other members may not be familiar with it. This periodic publication always has a back page giving information from each State as to what is happening in the gender equity network around Australia. The issue I have here contains information on what is happening in the ACT, in Queensland, in Tasmania, in Victoria (two items), in New

South Wales and in the Northern Territory. As a South Australian I was embarrassed to see that there was nothing provided from South Australia.

Why is there no contribution from South Australia? Is it that the Gender Equity Unit in South Australia has been abolished? If it has been abolished it obviously cannot produce anything for this national publication. If it has not been abolished, are its members so overworked that they do not have time to prepare a contribution for the national publication? Has it been suggested to them that they should not provide something for the national publication or, in fact, do they have no information whatsoever because the Gender Equity Unit here is not able to do anything and so has nothing to report? Is the Minister concerned that South Australia is missing from this national publication?

The Hon. R.I. LUCAS: As the honourable member will know, this Government has a very fine record in terms of promoting gender equity within all portfolios and sectors of Government, but particularly within the area of Education and Children's Services. The Government has taken a lead at the national level in terms of true gender equity investigation by Ministerial Council. At the MCEETYA meeting in April last year, a national task force was formed to ensure that the needs of young girls and young women, as well as those of young boys and young men, were considered in terms of educational provision within the system.

The Hon. Carolyn Pickles interjecting:

The Hon. R.I. LUCAS: There might not be. As to why the Commonwealth department has excluded South Australia from its most recent publication, I will certainly take up that matter with the Commonwealth Minister. It may well be that the Commonwealth Minister or the Commonwealth department may well have taken a position—I am not suggesting that they have—not to seek information from—

The Hon. Anne Levy interjecting:

The Hon. R.I. LUCAS: I am not sure; they may well. I am not suggesting other than saying there are a number of possible responses and I will certainly explore whether there was a problem from the Department of Education and Children's Services in South Australia in terms of providing information and not meeting a deadline or whether it was a decision taken at the Commonwealth level.

The Hon. A.J. Redford: Or whether they asked.

The Hon. R.I. LUCAS: Exactly. All things are possible. I will explore the honourable member's question and expeditiously bring back a considered response for her.

SOUTH AUSTRALIAN HEALTH SERVICES BILL

In Committee (resumed on motion).

(Continued from page 2374.)

The CHAIRMAN: Prior to lunch, there was some debate, and the Minister was seeking some advice. I presume she will be forthcoming with that advice to the Committee.

The Hon. DIANA LAIDLAW: No fees are paid for members of incorporated unit boards. It is proposed that there will be fees for the Chair and members of regional boards. There will be one category of fees for the Chair and one for members.

The Hon. BARBARA WIESE: There was one other question that I asked just before the break, whether the wording that is used in this Bill relating to fees for directors is the standard terminology used in legislation.

The Hon. DIANA LAIDLAW: I do not yet have that advice. I will provide it before the debate concludes today.

Amendment carried; clause as amended passed.

Clause 31—'Removal of director from office.'

The Hon. BARBARA WIESE: I move:

Page 12, after line 25—Insert new subclause as follows:

(2) The Governor cannot remove a director from office under subsection (1)(c) except on the request of a majority of all the directors.

This seeks to ensure that the Governor cannot remove a director from office for failure to make an effective contribution on a board, except on the request of a majority of all the directors. The events of recent weeks in relation to the TAB board and the efforts being made by the Government to try to sack the Chairman of the board, an action viewed by many people in the community as unfair and inappropriate and a situation where the Chairman is being made a scapegoat for the poor performance of the Minister in this area, brings to light a serious concern that members of boards should receive some protection in carrying out their duties. This amendment seeks to provide such protection by requiring that a majority of all directors should agree that a person has failed to make an effective contribution. It also provides some checks and balances on the Minister.

The Hon. DIANA LAIDLAW: Would the honourable member be prepared to move this amendment in an amended form so the last few words do not read 'a majority of all the directors' but, rather, 'a majority of directors at an appropriately constituted board meeting', so we make sure that at least a quorum was present? It could be that only three directors were present at a meeting, which was far less than a quorum, and they would still have a majority.

The Hon. BARBARA WIESE: I would be surprised if the Opposition was prepared to accept that as an appropriate amendment because that would still leave the situation open to abuse. It may well be, as the Minister says, that only three members of the board are able to turn up to a meeting. It may be a board of eight or 10 people, in which case you have a very tiny minority of people who are sitting in judgment on an individual. I think the protection—

The Hon. DIANA LAIDLAW: That is what your amendment does. As I say, we do not like it. We want an appropriately constituted board meeting which means you have to have at least a quorum present. Your amendment just says a majority of the directors at that meeting. You may only have three directors at a meeting and you could vote two to one, although you are meant to have eight directors.

The Hon. BARBARA WIESE: My interpretation is we are talking about a majority of all directors, not just whoever happens to turn up to a meeting but whatever happens to be the total number of directors who sit on that board. The aim that we each have is the same. At this stage I suggest that the clause as it stands should receive support and if there is another form of words on which we can agree at a later time, I will be prepared to look at that, if our objectives are the same. From what the Minister says, it sounds as though our objectives are the same, but I want to be clear about that.

The Hon. DIANA LAIDLAW: The Government does not like the amendment as it reads at the moment, although we understand the sentiment behind it. Let us leave it to the

members in the other place to work it out. I oppose this amendment at this stage, but not with great conviction.

The Hon. SANDRA KANCK: 'A majority of all' could be interpreted as the majority of all those who turn up or a majority of all those entitled to vote. If the amendment were moved in the form of 'the majority of all those entitled to vote', that might solve the problem.

The Hon. DIANA LAIDLAW: That measure provides 'an appropriately constituted board meeting'. The honourable member's amendment is essentially arguing for a quorum, and that is also what I am arguing for.

The Hon. SANDRA KANCK: I support the amendment. Something can be discussed at the deadlock conference.

Amendment carried; clause as amended passed.

Clause 32—'Chief executive officer.'

The Hon. BARBARA WIESE: I move:

Page 13, after line 2—Insert new subclause as follows:

(5) The chief executive officer cannot be dismissed except with the approval of a majority of all the directors of the board.

This essentially follows the same principle as in the previous amendment.

Amendment carried; clause as amended passed.

Clause 33—'Other staff of incorporated service units.'

The Hon. BARBARA WIESE: I move:

Page 14, line 5—After 'Chief Executive' insert 'and the Commissioner for Public Employment.'

This clause relates to the appointment of staff by the Chief Executive. Our amendment seeks to ensure that staff are employed according to Public Service employment practices, so we are including reference to the Commissioner for Public Employment.

The Hon. DIANA LAIDLAW: The Government opposes this amendment. The objects of the Bill provide for a more flexible and responsive health system, and under this Act the responsibilities of the chief executive officer are consistent with the approval of terms and conditions for appointments without reference to a third party.

Another argument in support of the Bill as drafted is that 90 per cent and more of employees within the health sector have their terms and conditions prescribed by award set by the State Industrial Commission or the Australian Industrial Relations Commission. In addition, the industrial relations issues still require the involvement of the Minister for Industrial Affairs and the Department for Industrial Affairs. The Health Commission, by administrative action, is required to discuss with the Industrial Claims Coordinating Committee, which is chaired by an officer of the Department for Industrial Affairs, before concluding any negotiations with unions. Therefore, the checks and balances already exist through the processes that I have outlined and this is not a necessary amendment.

The Hon. SANDRA KANCK: If checks and balances exist, this amendment will not hurt, so the Democrats support it.

Amendment carried; clause as amended passed.

Clause 34 passed.

Clause 35—'By-laws.'

The Hon. DIANA LAIDLAW: I move:

Page 14, page 33—Leave out '$500' and insert 'a division 9 fine.'

This inserts a divisional penalty rather than a monetary penalty.

Amendment carried.

The Hon. DIANA LAIDLAW: I move:

Page 14, line 3—Leave out subclause (4).

This is a drafting amendment. The matter is covered by the Subordinate Legislation Act and does not need to be dealt with in this Bill.

The Hon. BARBARA WIESE: Do I understand the Minister to be saying that these by-laws will be published in the *Gazette* by way of a power in the Subordinate Legislation Act?

The Hon. DIANA LAIDLAW: Yes. They must be printed in the *Gazette* under the Subordinate Legislation Act, and therefore it is irrelevant to incorporate it here. It is a matter of course under that Act; we are not being sneaky. We are just taking out one line in the Bill.

Amendment carried; clause as amended passed.

Clause 36 passed.

Clause 37—'Immunity from liability.'

The Hon. BARBARA WIESE: I move:

Page 14, after line 18—Insert new subclause as follows:

(1a) If, while enforcing or purporting to enforce a by-law, an authorised person, or a person assisting an authorised person—

(a) uses offensive language; or

(b) without lawful authority—

(i) hinders or obstructs another; or

(ii) uses, or threatens to use, force against another,

The authorised person is guilty of an offence.

Maximum penalty: $4 000.

This amendment—at least in another place—has become known as the Gunn amendment. It has consistently been moved by the member for Eyre to any legislation being brought into the Parliament where authorised persons are given certain powers over the public. The aim of the amendment is to guard against officious, overbearing behaviour by public servants or other authorised officers and to provide a measure of protection for the public. I certainly think that the occasions when authorised persons would behave towards members of the public in this way are rather few; nevertheless, there may be some occasions and it may be safe or prudent to include this provision.

The Hon. DIANA LAIDLAW: It is extraordinary that the member for Eyre missed this opportunity to insert this provision and that the honourable member is championing his cause. Nevertheless, the Government accepts this amendment.

Amendment carried; clause as amended passed.

Clause 38 passed.

Clause 39—'Power to fix fees.'

The Hon. BARBARA WIESE: I move:

Page 14, after line 34—Insert new subclause as follows:

(3) However, a public patient is not liable to fees.

This amendment essentially makes quite clear, or reinforces the point, that public patients are not liable to pay fees.

The Hon. DIANA LAIDLAW: We oppose this amendment. It is totally unnecessary; the Medicare agreement does exactly the same thing. The Medicare agreement prevents charging of public patients except in limited circumstances. Patient fees are prescribed by regulation and therefore can be disallowed. Parliament is therefore able effectively to review fee levels.

Secondly, there are a limited number of circumstances in which public patients are required by regulation to pay fees. For example, nursing home-type patients within public hospitals are required by regulation to pay 87.5 per cent of their pension as a fee. That is an important and appropriate source of revenue. If it is taken away, service cuts will have

to be made to cover the loss. I am not going to be responsible for that.

The Hon. SANDRA KANCK: Is the Minister suggesting that, if the amendment is passed, pensioners will be charged?

The Hon. DIANA LAIDLAW: We would not be able to charge, for example, nursing home-type patients within public hospitals the fee which, by regulation, now stands at 87.5 per cent of their pension. It is an important and appropriate source of revenue. If it is taken away, there will be service cuts because we will have to cover the loss. Essentially, the Medicare agreement addresses the issue, but it allows some flexibility, whereas the amendment allows none and would not allow us to provide for the regulation and charge nursing home-type patients a percentage of their pension as a fee.

The Hon. SANDRA KANCK: Although, presently, the Medicare agreement provides for public patients to be treated free, we have no guarantee that, following the next Federal election, we will have a Labor Government.

The Hon. Diana Laidlaw: Certainly, there would be no guarantee of that.

The Hon. SANDRA KANCK: No, exactly. Certainly, in the past the Liberal Government has not shown great enthusiasm for the Medicare agreement. It is therefore important to put in this matter. I do not fully understand the Minister's argument about pensioners. I am inclined to support the amendment, and we can negotiate and see what needs to be put in to make it read better when we get to deadlock conference.

The Hon. DIANA LAIDLAW: So the honourable member is indicating half-hearted support while she becomes better informed? I do not have time to inform her better.

The Hon. SANDRA KANCK: I feel strongly that the clause should be in, but the Minister has raised certain implications that she has not made me understand fully. I want the clause in, but if there are problems relating to pensioners I would like to see the clause amended at some stage, although I know that we will run out of time today.

The Hon. DIANA LAIDLAW: I have been alerted that many country hospitals have only nursing home patients, or the majority of their patients are nursing home patients. If they did not receive that 87.5 per cent of a client's pension as a fee, there would be no hospital at all. Those hospitals need that percentage to remain open. It is a pretty dramatic implication that I have not helped the honourable member to understand. Unless she is prepared to negotiate, she will unwittingly close a host of hospitals, and copies of the *Government Gazette* will be of little value at all, because people will be informed quickly what the honourable member had done.

The Hon. SANDRA KANCK: I am sure that we will be able to find a wording that will accommodate that, but probably not right now.

Amendment carried; clause as amended passed.

Clause 40—'Recovery of fees.'

The Hon. BARBARA WIESE: I move:

Page 15, lines 1 and 2—Leave out paragraph (b).

The amendment relates to powers to provide for the recovery of fees. Paragraph (b) provides for the spouse of a person who has incurred a fee or charge to be liable for their partner's debt. It is limited to persons who are cohabiting when the debt is incurred. The Opposition feels that that is an eighteenth century policy and that it is not appropriate to be included in legislation at this time. Individuals should be liable for their own debts.

The Hon. DIANA LAIDLAW: That practice is in the Act now. The honourable member might say that it is an eighteenth century policy, but it has stood the test of time because it is important in terms of the way in which families may generate income and in terms of the various financial arrangements that they make. The honourable member might not like the wording, but the practice is important. We could have a situation in which an income-earning member of a family has a spouse who is non-income earning. A service could be provided to the non-income earning person, and the income earning spouse could decline to pay charges under the proposed amendment. It is appropriate to charge a spouse for a service that is provided to their non-income earning spouse. Parents do that in respect of kids and others all the time. It has also been a longstanding practice in the medical sector.

Charges are raised only for private patients. Generally, private patients are covered by health insurance. Therefore, it is unlikely that private patient services will not be paid for by an income earning spouse, given the insurance payments that meet the cost of the fee raised. The honourable member might not like the wording, but the principle is very important. It might be an eighteenth century concept, but we should not throw out the principle.

The Hon. SANDRA KANCK: The Minister said that that practice is in the current Act. Do similar principles apply in other Acts, or is the current Act an anomaly in itself?

The Hon. DIANA LAIDLAW: The exact wording of the current Act is in the first part of the clause, which states:

the spouse of the person for whom the service was provided.

The additional words for the Bill are the words in brackets:

(but only if the person was cohabiting with the spouse when the service was provided)

So, they are operating as a family; they have not separated, parted or whatever. It is not an eighteenth century concept; it is a modern concept. We are not saying that people who have separated but who have not sought to divorce should be required to pay. We are asking for support within a family situation—from income earning to non-income earning. Most of those situations generally would apply. Charges can be raised only in respect of private patients. That is whom we are talking about. Very few private patients, if any, are not covered by insurance. They will not necessarily be directly out of pocket: they will have made a decision to cover themselves through insurance.

The Hon. SANDRA KANCK: I support the amendment. I feel very uncomfortable with that wording. I remember 10 or 15 years ago going to a radiologist and having an argument with the receptionist at the front desk because I would not give my husband's name. In the end we came to a stand-off, which they won, because they said they would not give the service to me unless I provided my husband's name. I was quite outraged by it at the time. Paragraph (b) looks very much like it. I have heard all your arguments but in the end I find (b) offensive.

Amendment carried; clause as amended passed.

Clauses 41 to 43 passed.

Clause 44—'Annual report.'

The Hon. BARBARA WIESE: I move:

Page 15, line 27—Leave out paragraph (a) and insert the following:

(a) particulars of the services provided by the service unit during the year, and of the services proposed to be provided during the next financial year, including particulars of the volume, scope and standard of those services; and

(ab) particulars of changes that were made during the year, and of changes proposed to be made during the next financial year, to the services provided by the unit; and

(ac) particulars of building work undertaken and equipment acquired during the year, and of building work and equipment proposed to be undertaken or acquired during the next financial year; and

(ad) particulars of any limits or controls placed on expenditure during the year; and

(ae) particulars of any management contracts entered into during the year; and

(af) particulars of any grants, subsidies or other financial assistance given during the year, or proposed to be given during the next financial year, by the unit out of money received by the unit for the provision of health services; and

(ag) particulars of the organisation, management and staffing levels obtained during the year and proposed for the next financial year; and

(ah) particulars of any action taken during the year and proposed for the next financial year for better ensuring—

(i) the quality of the services provided by the unit; and

(ii) the provision of appropriate services that take into account the special needs of persons of ethnic or other minority groups; and

(iii) the welfare of the staff of the unit; and

(ai) particulars of complaints relating to the provision of services by the unit received, handled or resolved during the year and of proposals for improvements in the mechanisms for handling and resolving complaints;.

This amendment essentially seeks to achieve an expansion of the statistical information that ought to be included in the annual report. It is part of the series of amendments moved by the Opposition which seek to improve accountability, provide transparency and openness in the provision of health services and generally give better information to the public.

The Hon. DIANA LAIDLAW: This is a generous remark in relation to this amendment. I recall nurses being really cross with the Health Commission a few years ago, because they were required to spend more and more of their time filling in forms, doing figures, balancing charts and providing information to the Health Commission. Over time there has been quite a mature understanding between incorporated units, the Health Commission, the Nursing Federation, etc. that all that paperwork was simply not necessary, because it was not focusing on health care where the effort should be made. The information required has gradually been rationalised over time until today.

Here we have the most amazing and excessive demand for information, information which health units, the Health Commission, Ministers of this Government and past persuasions have gradually been seeking to eliminate in terms of the provision of material. We are now going back to practices without actually understanding the implications on time, value and best practice within hospitals and health care. I think it is a most unfortunate amendment. If it goes through, which I suspect it may because everything I seem to oppose goes through—

The Hon. Sandra Kanck: You should stop opposing it then.

The Hon. DIANA LAIDLAW: If I were the second or third speaker you would want much information. I hope doctors and nurses have time to provide some of the high quality care which you insist on and which we would like to see provided in hospitals. It is an unfortunate, unnecessary trend and is far from the best practice which every other State seems to be moving towards. We seem to be going back to practices which, if there had been agreement, we did not need some years ago.

The Hon. BARBARA WIESE: What on this list of information being requested is not already collected?

The Hon. DIANA LAIDLAW: It may be collected. There is more and more assessment of what information is required simply for form filling or in making judgments about quality of health care and what services are required. Here you are asking not only for what material is gathered but for all of it to be printed and put into the annual report. Fortunately, last night we were able to get rid of the guidelines. We were to have all the guidelines in the annual report: now we have all of the grants, subsidies and a range of other things. We still have all the strategies and the policies in place. I am not sure why some members do not make a phone call to the commission to find out what is going on.

The Hon. SANDRA KANCK: I have news for the Minister about the reduction in paperwork: nurses tell me that since the introduction of casemix funding they have had quite considerable increases in paperwork. If the Health Commission has been working towards reducing that then it got something wrong along the line. I refer back to an Opposition amendment debated last night which now has the Minister providing monthly reports on the financial activity, service delivery, surgical waiting lists, movements and work force statistics during the month in respect of each incorporated service unit. It seems to me that quite a lot of the information in here is already being collected—I cannot see that there will be any severe disadvantage. For people in the collector area of any incorporated service unit this will be very valuable information. I support the amendment.

The Hon. DIANA LAIDLAW: It may be collected, but we are arguing whether it needs to be printed in the annual report. All those issues that the honourable member mentioned were issues I did not support last night. That was another agreement the honourable member and the Opposition made. The honourable member now has them not only collected from all these units but printed monthly, disseminated all over the State and incorporated in the annual report as well. I hope the honourable member has enough time to read all the things she insists everybody does. In terms of the additional information that nurses may complain about doing, it is important to note that admissions increased by 4 per cent and that that, of course, would naturally require more paperwork. Savings of $30 million have been realised over the same time; until today some of that, no doubt, was in paperwork.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 15, after line 30—Insert new subclauses as follows:

(3) The Minister must, as soon as practicable after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

(4) An incorporated service unit must make a copy of its annual report available for inspection by members of the public during the hours that the unit is normally open for business (or, in the case of a hospital, during the hours that the hospital's administrative office is open for business).

This amendment also relates to the annual report and our desire to have information made available to people as expeditiously and as early as possible. This amendment seeks to ensure that the Minister tables a copy of the annual report before both Houses of Parliament as soon as practicable after receiving it and that an incorporated service unit make a copy

of its annual report available for inspection by members of the public.

The Hon. DIANA LAIDLAW: It was a requirement of the Act in the past that every incorporated unit must have its annual report available for inspection. There was a requirement in the past that every incorporated unit must table its annual report in Parliament. For the reasons that I outlined earlier, a lot of commonsense has been reached between incorporated units, the Health Commission, Governments of the past and the present Government about the value of this paperwork, including the costs associated with it. Therefore, the Labor Government decided there was not a need for every incorporated unit (200-plus) to have its annual report tabled in this place. That went through the Parliament without a murmur. There was unanimous support for that step of rationalising the paperwork not only in the hospitals and the Health Commission but here in terms of having all these reports tabled. The world has got on pretty well until today when we find that we are going back and all these annual reports have again surfaced. I do not know how the honourable member has the time to do anything else but read health reports, gazettes, strategies and policies. If she has time now, she will not have it in future.

The Hon. BARBARA WIESE: I remind the Minister that this Government is changing direction in the health area. This Government is hell bent on introducing as much private sector involvement in the health system as quickly as it is humanly possible to do. The situation in health is changing. There is a fear within the community that the standard of health care may be affected by the various changes in arrangements. Therefore, it is not surprising that people want protection built into the legislation to enable them to scrutinise what is happening in the health system.

The Minister is very glib in her remarks about some of these matters, but there are genuine concerns in the community about the direction that the Government is taking. We all know what has happened thus far with the privatisation of the management of the Modbury Hospital. It has been virtually impossible for anybody to get any information about anything, and I shall have more to say about that when I have the opportunity to move my next amendment. There are serious concerns because this Government has been singularly unhelpful in responding to legitimate requests for information about the changes that it is bringing about in the health system. All the glib remarks in the world about the sorts of requests that are being made here will fall on deaf ears as long as the Government continues practising in the way that it is in the health sector. This amendment is made in response to community concerns about these matters. As the Minister knows, I shall be moving other amendments which seek to provide some of the information and protections that people want.

The Hon. SANDRA KANCK: I support the amendment.

Amendment carried; clause as amended passed.

New division—'Division 10A—Accountability of Private Contractors.'

The Hon. BARBARA WIESE: I move:

Page 15, after line 30—Insert new division as follows:

DIVISION 10A—ACCOUNTABILITY OF PRIVATE CONTRACTORS

Private contractors must furnish reports

44A. (1) If the board of an incorporated service unit has entered into an agreement with a person (a 'private contractor') under which the private contractor manages the whole or a part of the undertaking of the incorporated service unit or provides health services on behalf of the unit, the private contractor must report to the board on or before 31 August in each year on the contractor's operations under the agreement during the financial year ending on the preceding 30 June.

Maximum penalty: $10 000.

(2) The report must include—

(a) a statement of accounts audited by a registered company auditor showing the private contractor's income and expenditure in relation to those operations during the year; and

(b) any other information required by the regulations.

(3) A board must, as soon as practicable after receiving a report under this section, forward a copy of the report to the Minister.

(4) The Minister must, as soon as practicable after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

(5) An incorporated service unit must make a copy of a report received under this section available for inspection by members of the public during the hours that the unit is normally open for business (or, in the case of a hospital, during the hours that the hospital's administrative office is open for business).

(6) A private contractor's operations under such an agreement are, by virtue of this subsection, referred to the Social Development Committee of the Parliament.

(7) The Social Development Committee must report to both Houses of Parliament not less frequently than once in every 12 months on the matter.

This new provision seeks to add a new division to provide for greater accountability by private contractors who may be involved in the provision of health services. As I have just indicated, there is considerable concern in the community at large about moves being made by the Government to involve the private sector much more in the delivery of health care. This new clause seeks to ensure that private contractors who provide health services in one way or another must furnish information relating to financial matters in a comprehensive manner and make it available for scrutiny. The new clause outlines the levels of reporting that are being recommended.

I remind the Committee that, since the privatisation of the Modbury Hospital, that organisation has just about become a closed shop. Virtually no information is being provided publicly about the operation of that institution. As a member of the select committee that is looking at that matter, I can assure the Committee that very little real information is being made available to members of Parliament who have been given the task of scrutinising this move. If members of Parliament are not to be entrusted with information about the privatisation, management practices and plans for Modbury Hospital in any real way, how will any member of the public manage to get hold of such information?

An article which appeared in the *Sunday Mail* last weekend provides yet another indication of how tightly the doors at Modbury Hospital are closing. As honourable members may be aware, the *Sunday Mail* has decided to run a series of articles about hospitals in South Australia. Its fifth article was to cover the operations of Modbury Hospital, but it has been unable to obtain any information about the hospital. In fact, the *Sunday Mail* article deals with the Royal Adelaide Hospital, but in one corner it notes:

> The *Sunday Mail* approached Modbury Hospital as the fifth hospital to be reviewed in its special report. Modbury's new private management, Healthscope, declined the invitation. A spokesperson, after consulting with Healthscope management, said it was policy that the hospital not open its doors to the media.

It is not prepared to talk to the media or to parliamentary committees, so presumably it will not provide information to members of the public who have a legitimate interest in the delivery of health care in the Modbury area and, therefore, what is happening at Modbury Hospital. We say that is not satisfactory. We acknowledge that some issues may be

sensitive when private sector companies enter into business arrangements with the Government, but we also take the view that there must be a certain level of accountability when public institutions have private sector involvement, just as accountability requirements are placed on the Government in managing public money.

For that reason we feel very strongly that this Bill should make it incumbent upon any private sector organisation involved in the provision of health services through the public sector to provide certain levels of information so that there can be adequate scrutiny.

The Hon. DIANA LAIDLAW: The Government feels very strongly about this issue, and if it is supported by the Democrats we certainly intend to divide. The set of amendments proposed by the Opposition are extraordinary in terms of knowledge of everyone the Government has asked, from lawyers, the Australian Stock Exchange and a whole range of people, including people from the private contracting and financing fields. No-one from any of those sectors—not just within the Government sector—knows of any instance where such stringent reporting requirements are in place in terms of provision of private sector services to Government.

One really has to question why, when across the whole of Australia a variety of Governments of all persuasions at Federal and State level have been doing this sort of thing, suddenly South Australia, in terms of the health field, must have requirements that show a paranoia rather than a maturity in terms of relationships between Government and the private sector. The proposed amendments, as I indicated, are more onerous in their reporting requirements than the Corporations Law. That law went through this Parliament and was introduced by the former Attorney-General, Hon. Mr Sumner. They are important new laws in terms of accountability of the private sector in this country.

The new laws are seen as being fit for companies Australia wide. Also, the Australian Stock Exchange listing rules are seen to be fit and proper procedures and rules Australia wide—until it comes to South Australia, dear South Australia, and in particular the Legislative Council, where some members deem that, notwithstanding what has been good enough for the rest of Australia for years and years in terms of relationships between the private sector and Government, in this field of health we must add more onerous provisions. It is really a sad reflection on the nervousness of members opposite.

I suppose it might reflect on their incompetence in Government in terms of supervising arrangements and entering contract law. Perhaps on that basis one can excuse such amendments today. It would be a most unfortunate reflection on this Parliament if the Opposition's amendments were to ever pass. They will discourage private hospital operators from investing in South Australia. Perhaps that reason alone has motivated this extraordinary set of amendments. Perhaps it is this philosophical hang up and lack of confidence in their own capacity and philosophy to accommodate anything other than a public sector stranglehold over the health system.

When private providers are encouraged, as they have been in the case of Healthscope at Modbury, they are subject to stringent contract provisions. Such contract provisions specify financial and service performance standards, both in terms of quality and quantity, and it is that contract which is closely monitored by the board of directors, and therefore public accountability is maintained at a level equivalent to all other standards of public accountability in such contractual areas.

I want to dwell for a moment on this issue of looking inward, this paranoia and the lack of confidence shown by this small Labor Party that we are left with in this State. Labor Parties when in Government in other States, such as the Field Government in Tasmania and the Goss Government in Queensland, when handling health matters were able to accommodate on a mature, business-like basis contractual arrangements in accord with the Corporations Law and the Australian Stock Exchange listing rules. For the benefit of members in this place, I quote a statement made by the Minister for Health in the other place on 5 July:

> The Deputy Leader of the Opposition says that he is Tasmanian; that is the answer. I am sure all the Tasmanian people will love to hear that, and I will make sure that they do. You will never guess which private company Michael Field chose to be the outsourcer—Healthscope. Further, it collocated a private hospital on their Burnie hospital site, and the company that owned the private hospital was Healthscope. The Tasmanian Labor Government outsourced the Ulverstone public hospital to a private company. [It was Healthscope in this instance.] It was a Labor Health Minister who in February this year made a number of comments that were reported in the *Australian*.

In this instance it was the Queensland Labor Health Minister who said:

> The Queensland health system faces widespread introduction of private servicing into public hospitals, with the [then] Minister for Health Mr Heywood declaring yesterday that he would not limit private medical investment if it could cut waiting lists.

Similar statements at this time indicated that the Queensland Government planned to encourage more private hospitals to share facilities with public hospitals in high growth areas. I could go on and on in terms of Labor Governments that, when given the opportunity to be in government, are able not only to accommodate arrangements with the private sector in the health field but actually go out and encourage them. Whether it is their experiences in government or whether it is the paranoia of new members leading this field of health that makes members of the Opposition respond in this way, it is extraordinarily disappointing.

The Hon. SANDRA KANCK: I feel equally strongly about this amendment. This Government has talked at different times about the importance of transparency. Here is a chance for transparency and at this point the Government rejects it. The Minister has talked about this being important in terms of the relationship between Government and the private sector. What about the health consumers in all this? What part do they play? This seems to be an entirely commercial thing we are talking about.

The Hon. Diana Laidlaw interjecting:

The Hon. SANDRA KANCK: Since the Minister has raised Modbury, we have to look at the way Healthscope's share prices have tumbled in the last few months to their lowest level. The Minister has talked about maturity, but it seems to me that no company would have anything to gain by not revealing its activities unless it had something to hide. The Modbury example is a very good one. We need to know and the board of Modbury hospital needs to know.

The Hon. T. Crothers: Someone else might have something to hide.

The Hon. SANDRA KANCK: Yes, someone else might have something to hide. The board of Modbury Hospital needs to know whether it is at risk; the taxpayers of South Australia need to know whether they are at risk. Therefore,

this amendment is very important. I feel strongly about it and am delighted to be supporting the amendment.

The Committee divided on the amendment:

AYES (11)

Cameron, T. G.	Crothers, T.
Elliott, M. J.	Feleppa, M. S.
Kanck, S. M.	Levy, J. A. W.
Pickles, C. A.	Roberts, R. R.
Roberts, T. G.	Weatherill, G.
Wiese, B. J. (teller)	

NOES (10)

Davis, L. H.	Griffin, K. T.
Irwin, J. C.	Laidlaw, D. V. (teller)
Lawson, R. D.	Lucas, R. I.
Pfitzner, B. S. L.	Redford, A. J.
Schaefer, C. V.	Stefani, J. F.

Majority of 1 for the Ayes.

New clause thus inserted.

Clause 45—'Appointment of administrator.'

The Hon. BARBARA WIESE: I move:

Page 16, Line 3—After 'Chief executive' insert:
'(which must, however, have been published in the *Gazette* at least 7 days before the members of the board are removed)'.

This part of the Bill deals with the appointment of an administrator and provides for certain grounds under which the Governor may remove all members of the board of directors. Paragraph (b), to which this amendment refers, provides one ground for the board's removal if it persistently fails to comply with a direction of the Chief Executive. The Opposition wants to ensure that such a direction is published in the *Gazette* at least seven days before the members of the board are removed. This is another amendment which is designed to ensure openness in the process and that adequate notice is given prior to the removal of board members.

The Hon. DIANA LAIDLAW: The Government opposes the amendment.

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 16, after line 14—Insert new subclause as follows:

As soon as practicable after the members of a board are removed under this section, the Minister must lay a statement of the reasons for the removal before both Houses of Parliament.

This amendment relates to the same matter and provides that the Minister must lay a statement of the reasons for removal before both Houses of Parliament.

The Hon. DIANA LAIDLAW: We oppose the amendment. We intend that in such situations a ministerial statement would be made in relation to the events, and the statement would lay out all the reasons for the removal. Of course, that statement would be made in both Houses of Parliament.

Amendment carried; clause as amended passed.

Clause 46—'Dissolution.'

The Hon. DIANA LAIDLAW: I move:

Page 16, after line 19—Insert new subclause as follows:

(1a) Before the Governor dissolves an incorporated service unit or board of trustees the Chief Executive must—

(a) invite representations on the proposal from the board of the incorporated service unit or board of trustees; and

(b) consider the representations made by the board within the period stipulated by the Chief Executive (which must be at least 30 days); and

(c) report to the Minister on the representations made by the board.

This amendment involves the dissolution of incorporated service units and boards of trustees. It is similar to one already moved in relation to clause 19. It seeks to spell out the process which must be followed before an incorporated service unit or board of trustees is dissolved. The Chief Executive must invite representations from the affected board, which has at least 30 days to respond. The Chief Executive must consider the representations and report on them to the Minister. Therefore, the amendment seeks to build in due process.

The Hon. BARBARA WIESE: I move:

Page 16, after line 19—Insert new subclauses as follows:

(1a) Before the Governor dissolves an incorporated service unit the Chief Executive must—

(i) invite representations on the proposal from interested members of the public by notice published in a newspaper circulating in the area in which the incorporated service unit was established; and

(ii) consider representations from members of the community made in response to the invitation within a reasonable time (which must be at least 90 days) specified in the notice; and

(iii) report to the Minister on the representations made by members of the community.

(1b) A proclamation under this section is a statutory instrument that must be laid before Parliament and is subject to disallowance in the same way as a regulation.

As the Minister has indicated, this amendment deals with the same matter, but the Opposition's amendment seeks to provide for greater community input into the decision making, and certainly means, therefore, that we would be seeking wider consultation than the Government with respect to these issues. We also want to ensure that there is adequate time for that community consultation, which is why we want to provide for 90 days.

The Hon. SANDRA KANCK: I indicate that the Democrats will for a number of reasons support the Opposition's amendment. I certainly like the 90 days that has just been amended. An example is the Blyth Hospital and the way that was announced. It was done over a Christmas holiday period—

The Hon. Diana Laidlaw: Which hospital?

The Hon. SANDRA KANCK: Blyth.

The Hon. Diana Laidlaw: Oh, Labor!

The Hon. SANDRA KANCK: I realise that; I am not arguing which Party was involved. It was done over a Christmas holiday period, when people were not around. It would have been very difficult to get a board meeting organised. Even at the best of times, 30 days is not a good length of time because if the announcement occurs after the board has already met they are likely to have to wait at least another month before the board is due to meet again. A period of 90 days is much better.

We are talking about dissolution. This is much more serious than the setting up of an incorporated service unit. The Opposition's amendment is better again because it publishes it in a newspaper, which brings it to public attention, and at all times I am trying to ensure that we have that public input. It is only by advertising it widely and by having it known over a greater period of time that that public input can occur.

The Hon. Diana Laidlaw's new subclause (1a) negatived; the Hon. Barbara Wiese's new subclause (1a) inserted.

The Hon. BARBARA WIESE: Subclause (1b) is included to ensure that a proclamation under this section is treated as a statutory instrument and is therefore laid before Parliament and is subject to disallowance in the same way as a regulation. This is part of a series of amendments designed to provide proper scrutiny and public accountability.

The Hon. DIANA LAIDLAW: I oppose the amendment.

The Hon. SANDRA KANCK: This is an important amendment. If after we go through that process of public consultation it clearly shows that the public is opposed, and the Minister ignores the public input, this still allows Parliament to have some say.

New subclause (1b) inserted.

The Hon. DIANA LAIDLAW: I move:

Page 16, line 20—After 'service unit' insert 'or board of trustees.'

This is a drafting amendment. It rectifies the words 'or board of trustees' in line 20 that have been omitted in error. So, it would read, 'If the Governor dissolves an incorporated service unit or board of trustees. . . '

Amendment carried.

The Hon. BARBARA WIESE: I move:

Page 16, line 25—After 'a' insert 'local government'.

This amendment clarifies the point that the 'council' referred to in the Bill is meant to be a local government council.

Amendment carried.

Clause as amended passed.

Clause 47—'Obligation to hold licence.'

The Hon. DIANA LAIDLAW: I move:

Page 17, line 5—Leave out '$60 000' and insert 'Division 1 fine'.

This amendment provides for a divisional penalty rather than expressing the penalty in monetary terms.

Amendment carried; clause as amended passed.

Clauses 48 and 49 passed.

Clause 50—'Conditions of licence.'

The Hon. DIANA LAIDLAW: I move:

Page 18, line 12—Leave out '$60 000' and insert 'Division 1 fine'.

This is providing for a divisional penalty rather than a penalty expressed in monetary terms.

Amendment carried; clause as amended passed.

Clauses 51 to 53 passed.

Clause 54—'Inspection of private hospitals.'

The Hon. DIANA LAIDLAW: I move:

Page 19, after line 10—Insert new penalty provision as follows:

Maximum penalty: Division 6 fine.

This is essentially a drafting amendment. It seeks to rectify the omission of a penalty. It is consistent with other amendments and, again, it is expressed in divisional and not monetary terms.

Amendment carried; clause as amended passed.

Clause 55—'Appeal to District Court.'

The Hon. SANDRA KANCK: It has been put to me by one group which has lobbied me that clause 55(4) would have the effect of removing the court's capacity to review the merits of a decision by the Chief Executive and confine it to a review of process. What is the Minister's response to that suggestion?

The Hon. DIANA LAIDLAW: I will clarify the matter for the honourable member before the end of the day.

Clause passed.

New clause 55A—'Reporting obligations.'

The Hon. BARBARA WIESE: I move:

Page 19, after line 23—Insert new Part as follows:

PART 4A—HEALTH SERVICE UNITS RECEIVING STATE GOVERNMENT FUNDING

Reporting obligations

55A.(1) A health service unit that is not incorporated under this Act must report to the Minister or before 31 August in each year on the expenditure by the unit during the financial year ending on the preceding 30 June of any funds provided or allocated by the Government of this State.

(2) The report must include—

(a) particulars of the purposes for which the funds were expended; and

(b) particulars of the volume, scope and standard of services subsidised by the funds; and

(c) particulars of the organisation, management and staffing levels of the service unit; and

(d) particulars of any complaints received during the year by the unit about its services; and

(e) if the amount of those funds equalled or exceeded $250 000, a statement of accounts audited by a registered company auditor showing the service unit's total income and expenditure for the financial year and its assets and liabilities as at the end of the financial year; and

(f) any other information required by the regulations.

(3) The Minister must, as soon as practicable after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

This amendment seeks to include a new part relating to health service units receiving State Government funding. It provides accountability for public funds by private health units which receive public money. In deference to the Minister's desire to ensure that there is no unnecessary collection of information and generation of paperwork, the amendment excludes those organisations that receive amounts of less than $250 000, so it is the larger organisations that we are talking about. It also requires that the Minister must, as soon as practicable after receiving a report under this section, have copies laid before Parliament so there is adequate scrutiny of these matters.

The Hon. DIANA LAIDLAW: The Government opposes the amendment. Under the current Health Commission Act there is discretion in this field so that non-incorporated organisations that receive the majority of their funding from the Government meet the standards that are set out in terms of reporting processes. Organisations such as the Guide Dogs Association or the Autism Association receive a $40 000 grant out of a budget in excess of $1 million. In the past there has been discretion on the amount which they must report through the public system and to Parliament. We believe that it is appropriate to maintain that discretion in the future, rather than making it obligatory that all organisations that receive very important funding, but not by any means the majority of their funding, from the Government should have to go through this exercise.

New clause inserted.

New clause 55B—'Limitation on invasion of privacy.'

The Hon. BARBARA WIESE: I move:

Page 20, after line 3—Insert new clause as follows:

55B. A person engaged in duties related to the administration of this Act or the provision of health services must not require the disclosure of personal information about a patient unless there are reasonable grounds for requiring disclosure of the information.

Maximum penalty: $8 000.

This deals with the issues relating to privacy. I note that in the Bill the Government has already made provision for a duty to maintain confidentiality where a person who is or has been engaged in the duties related to the administration of this Act or in the administration of an incorporated service unit must not divulge personal information relating to a patient. This amendment comes at the privacy issue from a slightly different angle. What we are doing here is taking that protection a step further by ensuring that a person engaged in duties related to the administration of the Act may not require the disclosure of personal information.

As an example, this might apply in a situation where the Chief Executive of the Health Commission required certain

information to be provided by a health unit. We are saying that the Chief Executive Officer must preserve the confidentiality of a patient and may not require that disclosure, just as the person at the other end is not entitled to divulge it. We believe that this inclusion is desirable.

The Hon. DIANA LAIDLAW: The Government opposes this amendment, which is identical to one moved in the Lower House. On that occasion, the Minister argued that, when a patient enters a health service, there is a common law contract between the patient and the health unit. Part of that contract is that the unit must operate in the patient's best interests. A patient's confidential information is not available to anyone other than those people who are required to have access to it in order to treat the patient or to carry out the necessary and ancillary administration associated with the patient's treatment. Although the appropriate officer of the department or the health unit can authorise the divulging of confidential information, that can be done only when it is necessary under the law or when it is in the interests of the patient.

This amendment will water down the common law right to privacy which already exists in common law—a silly thing to do. The criteria which would be used would not be the patient's best interests but reasonable grounds for requiring disclosure of information. It is a backwards step which the Government argues is not in the patient's best interests. I also note that the maximum penalty is a monetary term. We consistently have sought to put such penalties in divisional terms but I do not have the equivalent sum so, if this amendment is carried, we would need some time to tidy that up.

New clause inserted.

New part 4A—'Consumer complaints against public and private health service units.'

The Hon. SANDRA KANCK: I move:

Page 19, after line 23—Insert new part as follows:

PART 4A—CONSUMER COMPLAINTS AGAINST PUBLIC AND PRIVATE HEALTH SERVICE UNITS

Minister must establish system for dealing with complaints

55C.(1) The Minister must establish a system for receiving, inquiring into and dealing with complaints from persons to whom services are provided by health service units, whether public or private.

(2) The Minister muse ensure that the system—

(a) is fair, efficient and accessible; and

(b) allows for the resolution of complaints by conciliation; and

(c) is sensitive to the differing needs of complainants; and

(d) is properly promoted.

(3) The Minister must ensure that a complaints data base is established and maintained so that problem areas in the delivery of health services can be identified.

(4) The Minister must cause a report to be furnished to him or her at 6 monthly intervals on complaints received, inquired into or dealt with under the complaints system but such a report must not identify the complainants.

(5) The Minister must, within 12 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

A very important structure is being set up here; this is a system to deal with complaints. Under the Medicare agreement, we are obliged to set up such a system but we have been very slow to do so. Under the previous Government, a working party was set up and it has made recommendations. However, the report of that group has never been released, although I understand that it did recommend the setting up of a patient complaints authority rather than the ombudsman role which I believe is what the Minister for Health favours.

It is very clear that this is needed. Members may recall a headline in the *Australian* of 2 June 1995 which read 'Hospital injuries kill up to 14 000'. That article talks about the fact that the deaths that occur in hospitals as a result of accidents and so on are costing the health system up to $650 million a year. The study, which was undertaken by the Federal Department of Health, estimates that between 10 000 and 14 000 patients died in hospitals throughout Australia in 1992 as a result of unintended injury, and a further 25 000 to 30 000 suffered some degree of permanent disability. So you can make your own judgments about what that means to South Australia. It does show that there is an absolute imperative for some form of patient complaints authority to be set up, and we need a system that allows patients who have survived and the relatives of patients who have died to report their concerns. I do not think that simply a register is enough; nor do I think that an ombudsman's merely trying to conciliate is enough.

Part of what I am proposing is that a complaints data base must be established. That would allow ongoing monitoring. We would quickly be able, with a decent data base, to detect whether a particular hospital or doctor is continually producing deaths or injuries. That would be an efficient way of throwing up such problems. At the moment it is very much guesswork. One cannot just push a button, as one can with a data base, and find out whether a particular hospital has more injuries and deaths than another. The public certainly has no way of knowing about it, except via word of mouth, and that in itself can be dangerous.

One reason that Modbury Hospital was not highly successful for many years is that there were rumours in the community about safety for patients in that hospital. Those rumours were unjustified. In the absence of statistics that the public can get hold of, rumours can cause great damage. It is surely better to have access to the truth. As part of what I am proposing, the Minister has to report or cause a report to be furnished at six-monthly intervals—six months is a reasonable interval; it probably takes that long to see whether patterns are emerging—and,within 12 sitting days of receiving such a report, that it be laid before both Houses of Parliament. In the light of the figures that were released in the Federal Government report in June, it is high time that South Australia took on its responsibilities to set up that body. I and many others who are concerned about the issue, particularly groups such as the Medical Consumers Association, believe that an Ombudsman option is only second best. Let South Australia have the best that we can provide.

The Hon. BARBARA WIESE: The Opposition also has on file an amendment relating to a complaints mechanism to be established, and it will support the amendment moved by the Hon. Ms Kanck in preference to my amendment. The Opposition feels very strongly that it is time that something was done about this matter. Since I have learnt a bit more about complaints mechanisms within the existing health system, I very much regret that our own Government did not act earlier on this matter and establish such mechanisms. Not only is it desirable as a matter of practice and as a matter of justice, but it is also required under the Medicare principles, and it is an accepted idea in international health protocols as well. It is something that we should be doing in South Australia. The Opposition warmly welcomes the amendment moved by the Democrats.

The Hon. DIANA LAIDLAW: The Government opposes both amendments. The Hon. Barbara Wiese did not move her amendment.

The Hon. Barbara Wiese: No.

The Hon. DIANA LAIDLAW: I shall limit my comments to the amendment moved by the Hon. Sandra Kanck. I should like to correct the Hon. Ms Kanck's reference to the working party report. That paper was prepared for former Minister Evans. It was never released; that was his decision. It put forward a range of options for an independent complaints office, one of which was the ombudsman's office, but it did not make recommendations. Therefore, there was no specific recommendation or preferred option for the Ombudsman. The current Minister for Health is pursuing that course of action, and great progress has been made.

The Government has indicated not just in verbal terms that this is what it wants, but it is making resources available to that office to deal with this issue of complaints. These decisions are well in train. Accordingly, it is our expectation that there will be an independent complaints mechanism, as required under the Medicare agreement, within the near future. This was a policy commitment made by the Government at the last election. It is excellent to see that such good progress has been made in such a short time after the former Government dithered around for so long.

I note that the Democrat amendment seeks to include private health units under the consumer complaint mechanism. We would argue that that is not necessary. Certainly, the Medicare agreement does not provide for private health units to be incorporated under the consumer complaint mechanism. The amendment also provides for extensive information recording requirements of reporting by the Minister to both Houses of Parliament. My view and the Government's view on the resort to Parliament in this amendment and throughout the Bill are well-known. I will not elaborate on the cumbersome procedures that the Legislative Council is imposing in terms of this Bill, not because of lack of enthusiasm or interest but only because of lack of time.

The Hon. SANDRA KANCK: I indicate that it was a very deliberate choice to include private as well as public patients. This has to be universal for it to work properly.

New part inserted.

Clause 56—'Duty to maintain confidentiality.'

The Hon. DIANA LAIDLAW: I move:

Page 20, line 12—Leave out '$8 000' and insert 'Division 5 fine'.

This is a divisional penalty rather than a monetary one.

Amendment carried; clause as amended passed.

Clause 57—'Disclosure of confidential information for certain purposes.'

The Hon. DIANA LAIDLAW: I move:

Page 20, line 32—Leave out '$8 000' and insert 'Division 5 fine'.

This is a divisional penalty rather than a monetary one.

Amendment carried; clause as amended passed.

Clause 58 passed.

Clause 59—'Reports of accidents.'

The Hon. DIANA LAIDLAW: I move:

Page 21, line 28—Leave out '$550' and insert 'Division 9 fine'.

This is a divisional penalty.

Amendment carried; clause as amended passed.

Clause 60 passed.

Clause 61—'Industrial representation.'

The Hon. DIANA LAIDLAW: I move a package of amendments as they are related:

Page 22—

Line 19—Leave out 'Relations and Employment' and insert 'and Employee Relations'.

Line 22—Leave out 'or order' and insert ', order or enterprise agreement'.

Line 22—Leave out 'Relations and Employment' and insert 'and Employee Relations'.

Line 24—Leave out 'or order' and insert ', order or agreement'.

Line 26—Leave out 'Relations and Employment' and insert and Employee Relations'.

The amendments are essentially a drafting amendment to correct the title of the Act to which reference is made in the clause. There will be further amendments later to this package because Crown Law has advised that the terms 'award or order' are not broad enough to cover enterprise agreements. The amendment makes these necessary adjustments.

Amendments carried; clause as amended passed.

New clause 61A—'Recognised organisations.'

The Hon. BARBARA WIESE: I move:

Page 22, after line 29—Insert new clause as follows:

61A(1) The following are recognised organisations for the purposes of this section:

(a) the Australian Liquor, Hospitality and Miscellaneous Workers Union (Miscellaneous Workers Division); and

(b) the Australian Nursing Federation; and

(c) the Public Service Association; and

(d) the South Australian Salaried Medical Officers Association; and

(e) any organisation declared under subsection (2) to be a recognised organisation.

(2) The Chief Executive may, by notice in the *Gazette*, declare any organisation—

(a) that is a registered association within the meaning of the Industrial and Employee Relations Act 1994; and

(b) that in the Chief Executive's opinion, represents a significant number of officers or employees of incorporated service units,

to be a recognised organisation for the purposes of this section.

(3) A recognised organisation, may make submissions to the Chief Executive and incorporated service units on any matter arising out of or relating to the exercise or performance of their powers or functions under this Act.

This relates to recognised organisations with respect to issues relating to industrial representation. The new clause names the organisations that should be registered. It provides for the Chief Executive, by notice in the *Gazette*, to recognise other organisations, should that be necessary at some stage in the future, and it also makes provision for recognised organisations to make submissions to the Chief Executive and incorporated service units on matters arising out of or relating to the exercise of the performance of their powers or functions under the Act.

The Hon. DIANA LAIDLAW: The Government opposes this new clause. Members may recall that, in the Public Sector Management Act, which passed this place, the new system no longer provides lists of organisations in legislation as is proposed for this Bill by the Labor Party's amendment. Rather, the Public Sector Management Act provides the right for the Commissioner for Public Employment, in certain circumstances, to deem organisations to be recognised. Therefore, the Government argues that, as Parliament has already made judgments on this issue and has considered the standard appropriate for the Public Sector Management Act, that is equally appropriate in this circumstance. Rather than list specific recognised organisations, we should apply the same practice as under that Act.

New clause inserted.

Clauses 62 and 63 passed.

Clause 64—'Regulations.'

The Hon. DIANA LAIDLAW: I move:

Page 23, line 18—Leave out '$1 000' and insert 'a division 8 fine'.

This amendment inserts a divisional penalty.

Amendment carried; clause as amended passed.

Schedule 1—'Repeal and transitional provisions.'

The Hon. DIANA LAIDLAW: I move:

Page 24, after line 7—Insert new subclause as follows:

(2) The repeal of the former Act does not affect the existing conditions of employment or existing or accruing rights to leave of any employee of an incorporated hospital or health centre that continues in existence under this clause as an incorporated service unit.

This has the nature of a transitional provision, making it clear that an incorporated hospital or health care centre under the former Act continues as an incorporated service unit under this legislation. The amendment seeks to make clear that the existing conditions of employment or existing or accruing leave rights of employees of such incorporated units are not affected by the repeal of the former Act. As I indicated in my second reading reply, I am advised that such a provision is not necessary, but the Government is prepared to include it if it provides some reassurance to some people.

The Hon. BARBARA WIESE: I move:

Page 24, after line 7—Insert new subclause as follows:

(2) Any enterprise agreement, industrial agreement or award affecting employees of an incorporated hospital or health centre under the former Act continues in force and is binding on the Chief Executive.

This relates to the preservation of existing conditions for members of the work force in incorporated health units. To the untrained eye and on the surface of it, these amendments look similar. I am advised that elements of my amendment are preferable to those of the Minister's amendment, although some aspects of the Minister's amendment are also acceptable and desirable. However, at this point I prefer to stick with the Opposition's amendment. It may be something that we can work on as we move towards conference, because my advice is that it may be desirable to try to incorporate elements of both amendments to reach an agreed position. At this stage I press on with the amendment.

The Hon. SANDRA KANCK: There are merits in both amendments. So that the matter can be discussed when we get to the deadlock conference, I indicate at this stage that I will be supporting the Hon. Ms Wiese's amendment.

The Hon. Diana Laidlaw's amendment negatived; the Hon. Barbara Wiese's amendment carried.

New clause 4—'References to the Commission in other Acts and instruments.'

The Hon. DIANA LAIDLAW: I move:

Page 24, after line 13—Insert new clause as follows:

4.(1) A reference in an Act or instrument (whether of a legislative nature or not)—

(a) in the case of a reference to the Commission under the former Act, will be taken to be a reference to the Chief Executive;

(b) in the case of a reference to the Chairman or the Chief Executive Officer of the Commission, will be taken to be a reference to the Chief Executive,

(c) in the case of a reference to an officer, an employee or a member of the staff of the Commission, will be taken to be a reference to an employee of the Department.

This is a tidying up amendment which seeks to make references in other legislation or instruments consistent with the new administrative arrangements proposed by this Bill.

Amendment carried; schedule as amended passed.

Title passed.

The Hon. DIANA LAIDLAW (Minister for Transport): I move:

That this Bill be now read a third time.

I provide an answer to a question from the Hon. Sandra Kanck about clause 55(4) relating to policy strategies, guidelines and court proceedings. The policy strategies and guidelines can cover private hospital matters. These are approved by the Minister and made public. In respect of subclause (4) this means that the court cannot make a decision that takes a private hospital outside of those policy strategies and guidelines. The policies, etc., require that washrooms be adjacent to an operating theatre. The court cannot order that a licence be given to the hospital if it does not have a washroom adjacent to its operating theatre.

Bill read a third time and passed.

MISREPRESENTATION (MISCELLANEOUS) AMENDMENT BILL

In Committee.

Clauses 1 to 3 passed.

Clause 4—'Removal of certain bars to rescission.'

The Hon. CAROLYN PICKLES: The Opposition will not be proceeding with its amendment to clause 4. After discussions with the Attorney, I would like to place on the record the reasons why we will not be proceeding with it. We would also like to place on the record the reason why we tabled the amendment in the first place. I appreciate that the Government's view is based on a considered opinion. I believe that it would be a waste of time to pursue the amendment without the Government's support at this stage. The Opposition is perfectly happy with the rest of the Bill. However, I would like to explain the reasoning behind the amendment.

As demonstrated by the Attorney in his most recent contribution on this Bill, the Opposition was not proposing radical change with this amendment. It would make it easier for plaintiffs in some cases to prove one of the ingredients of actionable misrepresentation. Part III of the Misrepresentation Act modifies the common law of contract in relation to misrepresentations. There are essentially three elements of the action which must be proved if a plaintiff is to succeed in court. They are: proving that there was false representation made by the other party; proving that the false representation induced the plaintiff to enter into the contract; and proving that the plaintiff would not have entered into the contract or paid the same price if the true state of affairs was made known to the plaintiff, or proving that the plaintiff has suffered some loss as a result of the misrepresentation.

The Opposition's proposed amendment would have sought to assist proof of the second of those elements. I do not expect that it would have caused a great deal of change in practice. That is because, in most cases, if it is believed of a plaintiff that the alleged representation was made by the other contracting party, it will usually follow that the plaintiff will be accepted when he or she says that the representation was one of the reasons why the contract was entered into. In other words, the issue of inducement will usually be one of the easier aspects of a misrepresentation case to prove.

Traditionally, courts have been ready to infer that a representation made in the course of contractual negotiations was one of the reasons for a plaintiff entering into a contract. This amendment reinforced that practice. It is common sense that when a whole range of reasons is given to a person to

enter into a contract the person entering into the contract usually takes all those reasons into account in some way.

The amendment would have created a presumption which can be rebutted by the defendant. The presumption will come into play only if the plaintiff is able to show that the defendant made the representation prior to the contract with the intention of inducing the plaintiff to enter into the contract. It is rebuttable, for example, in a situation where the plaintiff demonstrated genuine disbelief of a contentious representation made in the course of contractual negotiations, so that it was not obviously relied upon when the plaintiff finally agreed to enter into the contract.

The amendment may not have had a lot of work to do in practice, but in some cases it would have prevented injustice. For example, people with some form of mental disability may find it difficult to articulate the reasons why a particular contract was entered into. If a company sues for misrepresentation, the officer or employee receiving the misrepresentation may not be the officer or employee signing the contract on behalf of the company, and this might create problems of proving the inducement. This provision may also be useful in the minor civil claims jurisdiction where the parties are generally without lawyers and where there is some risk of claims being dismissed simply because the plaintiff did not give a complete and thorough account while giving evidence, thus failing to advert to all of the matters technically required to prove the claim.

At the end of the day, however, the Opposition does not consider the amendment so important as to delay the Bill. The Attorney has indicated that he is willing to look at any particular problem with the law and get advice from practitioners and academics in the area if we can outline particular problems. I am fairly relaxed about this approach. We will probably seek some advice from the same quarters and contact the Attorney, as he has suggested, if we think that it is necessary. I thank the Attorney for his response to my proposed amendment, but, as I have indicated, I will not be proceeding with it.

The Hon. K.T. GRIFFIN: I appreciate the comments that have been made by the honourable member. I will give further consideration to the issues that she has raised, and if they demand a further response I will arrange that by letter.

Clause passed.

Schedule and title passed.

Bill read a third time and passed.

COLLECTIONS FOR CHARITABLE PURPOSES (LICENSING AND MISCELLANEOUS) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 19 July. Page 2395.)

The Hon. CAROLYN PICKLES (Leader of the Opposition): The Opposition supports the second reading. The Government has pointed to a number of concerns that have arisen over recent years in relation to the methods and *bona fides* of people collecting for charitable purposes. The Opposition shares the Government's view that these concerns could have an increasingly serious impact on the level of genuine donations available to organisations in need and those which cater for people in need. The Bill modernises the existing legislation and also increases the level of regulation of people collecting funds for charities. The Opposition supports the measure put up by the Government.

At the same time we find it ironic that this Government is vigorously pursuing a program of deregulating and generally loosening State controls over a number of occupations and professions, while workers in the charity area are the subject of these increasing controls. Still, it is heartening to see that this Government is able to recognise that in some walks of life, in some occupations and activities, people cannot be left to regulate themselves because all too often the profit motive does not lead to optimal outcomes for the community. Since the shadow Attorney has asked a number of searching questions in the other place, and the Opposition is generally satisfied with the approach being taken, there is just one matter which I would like to raise.

It is more of a curiosity rather than a major issue. I note that the penalties in the Bill are listed in terms of divisional fines rather than dollar amounts. The Attorney would be better aware than I of the history of this issue. I recall that the divisional fine system of drafting has been used for quite some years and has the virtue of having all penal provisions readily amended from time to time roughly in line with inflation. Yet, the Government seemed to be adamant in relation to the Residential Tenancies Bill that dollar values should be fixed where penalties were to be imposed. I understand that there are fashions in legislative drafting from time to time but can we not have just one fashion at a time? Surely we can get the drafting of penalty provisions throughout all of our statutes. With this minor query, the Opposition supports the second reading.

The Hon. R.I. LUCAS (Minister for Education and Children's Services): I thank the honourable member for her support and look forward to the speedy passage of the Bill.

Bill read a second time.

RACING (TAB BOARD) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 2363.)

The Hon. M.J. ELLIOTT: I rise to oppose the second reading of the Bill. The principal purpose of the Bill is to enable the Minister to sack Mr Bill Cousins, Chairman of the TAB. On reading the Minister's explanation, that is quite plainly the intention of the Bill. I note that the explanation states that, if it were a private sector company running a business, its directors would be accountable to its shareholders and could be removed by the shareholders with or without cause. I note that, and I make one very important observation: if it had been a private company Mr Cousins would not have been abused as he has been under parliamentary privilege in the process of getting to this point.

People need to realise that this is not a hypothetical change in the legislation to give the Minister particular powers: this is effectively a Bill to sack Mr Cousins, and anyone who wants to present it as anything else is not being honest. Mr Cousins has been accused under parliamentary privilege of several quite serious things. First, it is perhaps worth asking: who is Bill Cousins? Mr Cousins is a man with a very long and reputable history of working in a number of companies, sitting on boards and being associated with charitable groups. For seven years, from 1968 to 1975, he was Chief Executive Officer of the Hibernian Australasian Catholic Benefit Society group, including the Hibernian Building Society. From 1975 to 1984 he was Chief Executive Officer of the National Health Services Association of South Australia.

From 1984 to 1990 he was Deputy Chief General Manager of Mutual Community Group. From 1990 to 1992 he was Chief General Manager of Mutual Community Group, including Mutual Community Building Society, Mutual Community Friendly Society, Mutual Community Hospital Services and Mutual Community General Insurance, retiring with effect from 1 July 1992. After that date he was retired but maintained a small practice in public accounting, tax and business consulting and a range of company directorships. He has held a very wide range of directorships. From 1973 to 1982 he was Federal Secretary of the Federal Council of Friendly Societies; from 1976 to 1983, Secretary to the South Australian Association of Registered Health Benefit Organisations; and, from 1977 to 1983, Federal executive member of the Australian Health Insurance Association, being Vice-President of that association from 1980 to 1983.

He was President and Chairman of Directors of the Voluntary Health Insurance Association of Australia, now known as the Australian Health Insurance Association (National Secretariat in Canberra), from 1983 to 1990, holding that position for six years longer than any other person has ever held it. From 1973 to 1991 he was a director of National Pharmacies, a chain of 31 pharmacies; he was Vice-President from 1988 to 1991. From 1987 to 1991 he was Chairman of System Services, a company jointly owned by Mutual Community, SGIC and the South Australian Housing Trust, providing high level technical support to computer sites. From 1984 to 1992 he was a director of Wakefield Memorial Hospital; and from 1986 to 1992, he was the Director of Territory Building Society, Northern Territory. From 1990 to 1992 he was a member of HIAC, an advisory committee to the Federal Minister for Community Welfare and Health on matters pertaining to health insurance and health services funding.

From 1990 to 1992 he was Director of National Mutual Health Insurance Pty Limited, Mutual Community Building Society, Mutual Community Friendly Society and Mutual Community General Insurances. From 1992 to 1995 he was Chairman of Calvary Hospital Incorporated. From 1992 up to the present he has been a trustee of the James Brown Memorial Trust, Kalyra, a large complex including a retirement village, hostel, nursing home and independent living units for the aged and disadvantaged. He was Deputy Chairman of the Catholic Church Endowment Society Financial Council. From 1993 until the present, he has been Chairman of the South Australian Totalisator Agency Board and a director of Festival Broadcasters.

He is Director of the Mary Potter Foundation, a charitable foundation supporting hospice and palliative care. This is the background of the man who is being accused of not running a business in an appropriate fashion and, in particular, of not properly informing his Minister and the Premier of what he was doing. I have very grave reservations about taking a person of very high standing in the community and having his reputation torn apart in Parliament, and if I voted for this Bill I would be voting in support of the tearing apart of his reputation. As I said, this is not a hypothetical piece of legislation where we are changing the powers of the Minister: the Minister has already said what he is going to do and has already, under privilege in this place, made direct accusations about Mr Cousins.

We must be very careful of that. I will not associate my name with tearing apart a person's reputation. Even if the allegations were true, we are acting as a *de facto* court, and Mr Cousins has no right in this place to defend himself; in fact, publicly he has been gagged as well. Not only can he not appear before this Chamber but also he has been gagged outside it as well. That is an absolute disgrace.

Nevertheless, I agreed to look at all the available information to see what justification there was for the allegations. I have been given access to correspondence between Mr Cousins and the Minister, and a letter also went to the Premier. I have been given access to crucial minutes and accompanying documents over the crucial period from 30 May through to about 27 June. I had a rare opportunity to look behind the allegations and to see whether or not the minutes, the accompanying documents and the correspondence indeed ratified the accusations. I do not believe that they did. I do not believe that the allegations that have been made about Mr Cousins stand up at all.

Let us just take a few of the key allegations that have been made about Mr Cousins. The Minister has known for a long time that the form guide was being contemplated. The timing of the plans in question was changed by the board when it became aware of huge increases in costs in 1995-96. Nevertheless, the plans to which the Minister referred were given to him first in July 1994. So the Minister knew at least by July 1994 that there was the potential that something like *TABForm* might be produced, and he knew again in January 1995. The Minister was given a report on 5 June following the meeting of the board on 30 May.

The question whether it should continue with the *Advertiser* or produce its own publication—or indeed go to another newspaper—had been discussed at the board meeting. At that board meeting, there was no doubt that the preference was to stay with the *Advertiser*, if it would reduce the cost. As things were panning out, it looked as though it could be facing a cost of $2.5 million for the TAB information to appear in the *Advertiser*. Imagine how the Crows would feel if the *Advertiser* charged for football information to appear in the paper, because it is a reason why people buy papers. One normally buys papers to look not at the adds but at information one wants. It is worth noting that the *Advertiser* has continued to print the information since, because it believes that the information sells papers. It wanted to charge the TAB $2.5 million. No other paper in Australia was charging equivalent TABs for space.

It is true that in Queensland, another one paper area, its TAB was buying $1 million worth of advertising as something of a contra-deal so that its form guides could be run. Its form guides were more comprehensive than ours, yet the *Advertiser* wanted to charge $2.5 million.

That is a lot of money. That $2.5 million is straight out of profit, and that is a fairly serious cut into profits. It was not unreasonable for the board to be looking at it. I believe not only that the Minister was aware that the board was looking at it for a long time but also that he himself had been over to Western Australia and had looked at the publication that the Western Australian TAB was producing.

Nevertheless, on 5 June the Minister was informed that the issue was being looked at. The Minister knew that the contract expired at the end of the month. He knew that negotiations were proceeding. One did not have to be particularly intelligent to work out that, if the negotiations were not successful, something else would have to happen. One knew that the TAB board had not only been working on it but also that some one and a half to two months previously had already produced mock-ups of what the new paper would look like. It was not hypothetical. They had gone a long way down the track.

The Minister made much of a secret meeting on 17 June. It is fair to call it a special meeting but it was never meant to be a secret meeting. The next regular meeting was planned for 27 June but, in the minutes of 30 May, quite clearly they contemplated the need for a special meeting if talks with the *Advertiser* were not proceeding well. One would expect a board to do that. If they were going to get *TABForm* on the road, they could not wait until the 27th or the end of the month and then decide to do it. There was obviously a lot of work to get the paper to its final form, even though they had already been through the mock-ups.

The point I am making at this stage is that the Minister knew that *TABForm* was being contemplated; he knew the contract was expiring at the end of the month; he knew that mock-ups had been around for months; and he knew it was in the plans that, if things broke down with the *Advertiser*, there would be a need for a *TABForm*. He knew all that. He often talked about the fact that he did not receive agendas for these meetings. He never received agendas, not just for the meeting on the 17th—this so-called secret meeting: he never asked for the agenda of any meeting. So, what is so surprising about the fact that he did not get the agenda for the meeting of the 17th when he did not get the agenda for any others?

Mr Oswald was, in fact, a very hands-off Minister. He was quite happy for the TAB to come back and report to him about what was happening. He did not have to be. Under section 52 of the Act, he always had the powers that he decided to exercise a little less than two weeks ago, so that he could direct the board. The board has always been at his control and direction. He has chosen not to exercise those powers in the past. When one considers that the Minister has made some complaint about the TAB from time to time in the past, one wonders why he had not asked for the agendas. That is a fair question. If he really was an active and interested Minister, why was he not asking for agendas in advance. He had the power to do it, but he did not do it. It is not the fault of the board or of Mr Cousins that he had not chosen to do that.

The Hon. T. Crothers: Even if you get an agenda, how do you know what the general business section of that agenda will contain?

The Hon. M.J. ELLIOTT: In any case, the agendas always contained it as a separate item. It was an item of importance. Whilst we are talking about a contract worth a couple of million dollars, contracts of that size are not unusual. The TAB board every year makes quite a few decisions of that scale. This was not unusual in scale, but perhaps it was unusual in that it related to the *Advertiser*.

It is very unfair of the Minister to make any suggestions that he was unaware that this *TABForm* was any sort of real likelihood, because he has always known it was a likelihood. It was only a question of timing, and the expiry of a contract is an obvious time for the *TABForm* to cut in. Clearly it was not a matter that was being discussed in the public arena. It is not something which the TAB will talk about loudly. Trying to stitch together this alternative *TABForm* was always open to various forms of espionage, if one likes, or interference.

I am not talking about ministerial interference but about other forms of interference. One does not have to be a genius to work out what that means. As I recall, the Minister was notified on, I think, the twenty-first of the intention to print *TABForm* and not to continue the contract with the *Advertiser*. There could be some argument about the exact wording of the telephone conversation with the General Manager of the TAB, but there seems to be general consensus that, no matter who suggested it, they should go back to the *Advertiser* one more time to see whether it was prepared to change its price. There could be some argument about the precise wording, but even at that point there was a telephone conversation and, if the Minister had real concerns, he had the power to instruct the General Manager and the board not to sign a contract until he personally had had a chance to intervene.

The Minister did not do that. He was told that the contract was about to be terminated and that they were about to sign a contract for *TABForm*. He knew that was going to happen. He said that they should go back to the *Advertiser* to check the price, but he did not give an instruction not to proceed further until he had given the go ahead. He had the power to do that under section 52 of the Act, so he cannot complain about what happened from that point on.

I am under some pressure of time and I have gone over that fairly quickly, but it is unfair for the Minister to say that he did not know what was going on. It is not a surprise if he did not know all the details because he always got information after the event. That is the way in which he had always worked with the TAB: this was nothing new with this contract or any other contract, so it was no surprise at all. Whether or not the Minister was right in doing that is a question that should be asked of the Minister but certainly not one that should be asked of Bill Cousins or the board. I might add that it was a unanimous decision of the board. In fact, I understand that all the decisions were unanimous decisions of the board, so why is Mr Cousins being singled out?

In the other place, the Premier complained about the fact that Mr Foley got his letter 53 minutes before he did. I understand that an instruction was given to a member of the TAB office staff to deliver a copy of this letter to the Leader of the Government (the Premier), the Leader of the Opposition, obviously the Minister, and the shadow Minister. I feel a bit left out, but they are the four to whom copies were to be sent. The instruction was to deliver a copy to each of those four persons. I understand that the staff member rang the four offices, determined that Mr Foley's office was outside of town and that the other three were not, faxed the letter to Mr Foley's office and hand delivered the remaining three. The suggestion that it got to one person 53 minutes before the other is really a red herring. It was not done on the instructions of Mr Cousins or anyone else; it simply happened because an office person was asked to send the documents to these people. The fact of the matter is that three could be hand delivered but the fourth one could not. There was no special deal about it, yet a great deal of fuss was made about that in the other place as though Mr Cousins was trying to do a special deal with the Opposition as against the Government.

Let us move on to the question of whether or not financial information given to the Premier and the Minister was correct. The Premier and the Minister both said that they were told that it would save $1 million and that if they had said that during Question Time they would have been guilty of misleading the Parliament because it is not true. The letter to the Premier and the other three people said that this would save $1 million. I will not go through all the nitpicking detail that can be gone through because various scenarios have been looked at by the board, but I can say that the $1 million figure that was included in Mr Cousins' letter of the twenty-second was supported by the full board in a later letter. I think Mr Cousins was very sensible from this point on because, as I understand it, every time following this that the Minister

wrote a letter asking for a reply, Mr Cousins did not do it off his own bat.

The full board considered the letter that was sent to him by the Minister and the response. The responses were not just from Mr Cousins: they were the responses of the full board. So, if the Premier and the Minister are claiming that they are getting contradictory information, they will have to blame the whole board, because the whole board agreed to the substance of the letters that were sent back in terms of further information. The board stood by the $1 million figure and in the correspondence explained how that $1 million figure was reached.

Again, due to the pressure of time I will not go through the detail, but I can tell members that the full board, in a letter to the Minister dated 26 or 27 June, which is rather long and which is signed by Mr Cousins with the knowledge of the full board, clearly stated that it believed that there would be a consequent saving of $1 million because of the decision to produce *TABForm*. Many questions were being asked by the Minister, seeking to probe various issues. Every one of those questions was answered, not by Mr Cousins but by the full board and, in each case, the full board supported everything that was said in that correspondence.

The Hon. Caroline Schaefer: The full board has asked Mr Cousins to resign.

The Hon. M.J. ELLIOTT: No, the full board has not.

The Hon. Caroline Schaefer: That is what it said in the *Advertiser* yesterday.

The Hon. M.J. ELLIOTT: I think you are talking about the SAJC. I do not know whether the SAJC had a formal meeting. It asked Mr Cousins to stand down, but not because it believed he had done anything improper but because it realised that there was now a conflict between the Minister and Mr Cousins. It is saying, 'There is a mess; we want you to shoulder the burden.' The point I am trying to make is that each of the specific allegations that have been made against Mr Cousins does not stack up and is not supported by any of the evidence that I have seen. In each case, what Mr Cousins has done is being supported by the full board, including three people who have been appointed by the present Minister. Despite the fact that some of them are very close to the present Minister, they were in unanimous support of what the TAB board did and are in support of the correspondence that was sent out.

Over the past 10 days, while this issue has had the greatest heat in it since the Minister announced that he wanted to sack Mr Cousins, many people have rung me with a lot of information. There is an awful lot of scuttlebutt flying around the rumour mill but I know the vast majority of that is not true because of the access I have had now to some of the material. That is a worry but unfortunately that is what happens: once you start making accusations about people, the rumour mill takes over, it gets to work and puts a lot of frills and bells onto it. A number of people may be concerned about whether or not the decision to publish *TABForm* was a good decision, but I can only say that that was a decision of the full board.

There may be some concern about what has happened with 5AA but, although the more recent decisions were made by the full board, the substantial initial decision to go into 5AA was made 10 years ago and not by any members of the current board. I will not pass comment on whether or not mistakes have been made. However, I will say that, so far as there may have been any mistakes there, they have not been the doing of Mr Cousins: they have been the doing of the board unanimously in every case. I have said to the Minister that, if he does have general concern about whether or not some good decisions have been made, it is not wrong for him to inquire into those. If he thinks that anything seriously wrong has happened, by all means he should set up some sort of inquiry.

At this stage I am not supporting the Opposition's call for a select committee inquiry as, having been on many committees in this place, I know that some work very well and some do not. One of the important factors is how political they become. The unfortunate thing is that, with such an inquiry, whilst a lot of important questions could be asked and a lot of important information could be gathered, a committee where unfortunately most people have made up their mind before they have started—and I think with an issue that becomes political that is always a risk—likely would be highly dysfunctional and it would not produce a report of value. In fact, if anything, it might do more harm to the TAB and the racing industry than anything else.

So, whilst I acknowledge that issues need addressing, I do not believe that in this particular case a select committee is the way to go. I have been under pressure of time since I began my speech and there is a lot more ground I would like to have covered but, in conclusion, I would like to say that this Bill has one purpose, and that is to sack a man who has had a very good reputation in Adelaide, South Australia and nationally and who has a *curriculum vitae* that certainly dwarfs that of the Minister who wants to sack him. I have been stunned by the number of phone calls from people who are of very high standing and who apparently have been making unsolicited references for this man. On the other hand, I have had only one person who has rung to want to badmouth Mr Cousins. I have had a huge number of phone calls and letters from people who absolutely are aghast at what is being done to him.

I cannot be party to the destroying of a person's reputation and unfortunately the process that has been set in train here has the potential to do exactly that. The issue as to whether or not the Minister should have power to sack is worth debating but it should be debated away from the light which has been put on one person and unfortunately, in this case, it has been put on one person very unfairly. I also already am getting feedback from the community which shows quite clearly that that is what the community thinks. I have had more phone calls on this issue than anything in which I have been involved, including the issues of WorkCover, marijuana and a vast number of other things. The calls are about 9 to 1 saying that Mr Cousins should not have been sacked and that Parliament's trying a person is improper.

I have been stunned by the number of calls and by just how strong the tide has flowed in one direction. So I think the public shares the view that I have formed. I will not be supporting the Bill. As I said, the issue of ministerial power to appoint and under what conditions they can sack people is worth consideration but I am not going to make Mr Cousins a scapegoat as he is being set up to be at this stage.

The Hon. CAROLYN PICKLES secured the adjournment of the debate.

PORT ADELAIDE COUNCIL

Adjourned debate on motion of Hon. L.H. Davis:

That the Legislative Council expresses its concern about the administration and financial management of the Port Adelaide

Council and asks that the State Government conduct an investigation into the matters raised in debate on this motion.

(Continued from 5 July. Page 2248.)

The Hon. J.C. IRWIN: I thank members for their indulgence in allowing this part of Private Business to be dealt with now. It is quite a daunting task to read through in excess of seven hours of debate so far on the Hon. Mr Davis's motion. I commend the Hon. Mr Davis for his extensive and painstaking research on this now very comprehensive subject. The Hon. Mr Davis will present his own rebuttal to the Hon. Mr Cameron's contribution. Only a fool, I suggest, would dismiss what has been said so far by the Hon. Mr Davis and, I hope, myself. It was never the intention to outdo either the Hon. Mr Davis or the Hon. Mr Cameron with a lengthy contribution. However, those who know my style know that these contributions sometimes grow, as I am given more time to prepare them, and I have been given ample time this time.

I take this opportunity in supporting the motion to inform the House of my interest in the affairs of the Port Adelaide council. The contribution grows like topsy as the issues cannot be dealt with in an abbreviated way. The great bulk of the material presented by the Hon. Mr Davis was new to me and arrived at through his own research, financial experience and contacts. The Hon. Mr Davis presented his arguments in two parts. The first started with the agronomic advice regarding the Pelican Point site of the Flower Farm and followed through with the other phases since 1989 to the Flowers of Australia prospectus. This phase of the argument contained financial aspects of the Flower Farm and the Port Adelaide council. The second part of the Hon. Mr Davis's argument centred on the Flowers of Australia proposal.

The two phases flowed together to make one compelling argument for action by the council itself and, indeed, the Government. There is absolutely no doubt that past and present members of the Port Adelaide council, or interested followers of the fortunes of the Flower Farm and the council, have never had the situation at Port Adelaide so comprehensively exposed, despite efforts by a number of concerned people, including councillors, over the years. I will leave it to the Hon. Mr Davis to deal with the long and wordy attempt at rebuttal by the Hon. Mr Cameron; suffice for me to say that there is plenty of ammunition for the Hon. Mr Davis, because the Hon. Mr Cameron's rebuttal was pathetically short of real, hard, financial facts and arguments to go anywhere near refuting the financial claims made by the Hon. Mr Davis.

The Hon. Mr Cameron attempted to fudge the financial arguments and the duty of councillors and staff to their ratepayers and electors. He did a pretty good job of fudging, as he was advised by an expert. If a better job cannot be done by speaking against this motion, there is an even more compelling argument to support the Davis motion. My contribution to the debate on this motion will not go over everything mentioned, but I will pick up some points made by the Hon. Mr Cameron and set out some further matters that need attention under the aims of the motion. Because so much has already been said for the written record, my contribution by choice will be somewhat disjointed. I will emphasise areas where there never has been proper explanation to me or, more importantly, to the people of Port Adelaide. Those areas need to be investigated.

There is no better place to start my contribution than to refer to the concluding remarks of the Hon. Mr Cameron, who said:

It is time we let the council get back to its core operation of looking after and servicing the needs of Port Adelaide.

If only it could get back to its core operation and not go on trying to defend the indefensible. Indeed, these were the sentiments of representatives of the people of Port Adelaide who came to see me first in 1989, six years ago, and still the saga continues, and still the financial position deteriorates by whatever measure one likes to use.

I take this opportunity to put two things clearly on the public record. The late Stan Rogers, former long-time councillor and Alderman of Port Adelaide, who died with the threat of a defamation action hanging over his head—not the first one, I might add—was one of the finest men it has been my privilege to know. His integrity was never in question, he was old fashioned and he had principles. As a former customs officer, he was very methodical and precise and, I believe, he was trained by his job and his principles to know what was right and what was wrong. No-one has ever put to me one single factor which could or would dent my admiration of his honesty and integrity. Neither the late Stan Rogers nor any other Port Adelaide councillors or residents who came to see me ever talked about Party politics. I do not pretend to know the agenda or intrigues of Port Adelaide or its political factional differences, and I do not want to know.

I believe that the late Stan Rogers was a former President of the sub-branch of the Port Adelaide Labor Party. I do not care about that and it was never a consideration of mine to question his political beliefs. I have respect and admiration for two local Assembly members in the area, one still serving, namely, Mr Murray De Laine, and one now retired, namely, Mr Norm Peterson. I have not directly discussed the Port Adelaide council with them, but I was frustrated to know that they could give no satisfaction when councillors and the Port Adelaide Residents and Ratepayers Association tried to get them to address the problems in the council and with the fledgling Flower Farm. As time passed, I was disturbed to be given local advice that certain influential, highly placed Government doors would be closed to me or anyone else who questioned the council or the farm. All of this was during the time of the Bannon and Arnold Governments.

The second matter I refer to relates to a former councillor eventually elected by the council to represent the council on the Flower Farm board. In this context I should say 'elected by the council to the Flower Farm board', for on legal advice, which has never been tested, he was advised that his legal obligation had to be to the Flower Farm board and not to the council which put him on the board. This is an appalling position in which to be placed and a very big reason why all the problems were able to be bottled up in the board and not thrashed out by the council and the public it represented. This is one matter which must be addressed in any new legislation relating to section 199 or 200 authorities under the Local Government Act.

I often wonder why such a huge effort was made to suppress any form of public discussion about the use of public funds. Any investigation should try to determine who was benefiting and by how much from the suppression of relative information about the use of public money. This councillor, a member of the Flower Farm board, was also a member of the Port Adelaide Ratepayers and Residents Association (PARRA). I want it clearly on the record that this councillor never at any time gave me Flower Farm information or, as far as I know, breached the spirit of the legal opinion he was given—nor did I insult him by asking for it.

He was clearly and heavily threatened. His decision to stay clear of legal action against him—at great personal expense—was the only course he could take. After all, this councillor has been threatened before.

At the initial public meeting at which the ratepayers organisation was formed in 1989, a petition eventually containing over 5 000 signatures was started. The petition called on the Minister (Hon. Barbara Wiese) to sack the Port Adelaide council for its imposition of high rates. The population of Port Adelaide at that time (1988) was about 37 000. Nearly 14 per cent, or one in seven residents, signed that petition, which is not a bad sample. This occurred before the Flower Farm got off the ground properly. The Hon. Barbara Wiese, then Minister, refused to see the deputation; so the organisation sent a letter to the then Premier, Mr Bannon. At the public meeting the councillor to whom I refer was elected as Chair of PARRA. The person was then elected to council. True to form, the council's CEO, Mr Beamish, served that new councillor with a defamation notice.

This councillor was threatened when he first became councillor and as he sat on the board of the Flower Farm. The people of Port Adelaide must have the most extensive legal advice of any council I know. According to cheque runs, legal fees from 22 May 1989 to 20 November 1990 amounted to $68 000. In a sample of other years, under schedule 13, 'administration', the council spent $73 000 in 1990-91, $91 000 in 1991-92 and $82 000 in 1991-92 on legal fees. It is difficult to find any mention of legal fees in the audited statements of the council and/or the Flower Farm. The people of Port Adelaide do not know the extent to which there seems to be an unlimited use of the legal profession, nor can they judge whether this was justified and of importance to Port Adelaide.

I believe I am correct in saying that the legal fees of this administration are not necessarily the legal fees allocated to other areas within council operations where there is some call on an annual basis for legal work. As far as I am concerned the people who came to see me from PARRA, including three councillors, had only one aim: to protect the ratepayers and electors of Port Adelaide. That has always been my aim as well. The three councillors and members of PARRA made many attempts to alert people to matters which concerned them at Port Adelaide. The arrogance and lack of principle of the Flower Farm defenders is best summed up by the legal action against me or anyone else who dared put their head up. This started when the council voted in 1990 not to allow the CEO, Mr Beamish, and the Mayor to go overseas on Flower Farm business. However, in the end the CEO, Mr Beamish, got his way and his trip through the Flower Farm board—the creation of an arm of the very council which refused the trip in the first place.

My advice was that Mr Beamish was a frequent traveller interstate and overseas at ratepayers' expense, most often without any knowledge of the council beforehand, and few, if any, reports to the council on his return from these trips. I have knowledge of trips to Hong Kong, Japan, following the council's refusal to pay for the trip, and in mid-1990 to Thailand, Holland, Germany, Italy, France, England, Florida, Texas and California, not to leave out the mysterious BIC trip to Kuala Lumpur.

Who paid for these trips and all the expenses? Who authorised these overseas trips and the many trips to Ballarat using the council's SAAB car? Strange, I do not see any itemised mention within the budgets or audited financial statements. I do not recall seeing any advice from the council's auditors that they had scrutinised these visits overseas and interstate. The audit firm is the same audit firm which exposed the use of credit cards at the Unley council. Why did they not audit and scrutinise for the public benefit the travelling costs of the council's CEO? I am glad that someone has now exposed the credit card use of the Thebarton council's CEO. These sorts of exposures are good for accountability and should be exposed. One wonders how widespread is the habit of chalking up expenses for all sorts of things to the council to be paid for ultimately by the ratepayers. I hope that the Port Adelaide auditors can come up with a satisfactory response.

The Flower Farm was set up for export sales of produce. The business plan is specific that IHM was responsible for selling the product, not the council. In fact, Dr Freeman as head of IHM had only just returned from an extensive overseas trip at the time that the council first refused the trip some months later by the CEO, Mr Beamish. No matter what the perceived value of these trips by the CEO are or were, the very fact that they happened and the way they happened, not always with reports, could only inflame the attitude of some councillors and electors of Port Adelaide. No avalanche of words from Mr Beamish will convince me or anyone else that for a Mayor with a chain of office or a CEO promoting the city of Port Adelaide and the possibility of an MFP adjacent to that city these trips are or were of paramount importance to the future of Port Adelaide, with or without a Flower Farm.

I should explain that most of the events to which I refer relate to the years 1988 to 1992 and that sort of timeframe, not to the years after that when I was not in such close contact with the affairs of the council.

When the people from Parra came to see me, I was a person at the end of a long line of attempts to get satisfactory answers. I will list the attempts of the Parra organisations to get proper attention. In 1988, see local member Murray De Laine twice, Norm Peterson five times, trying to arrange meeting with the Minister for Local Government, Hon. Barbara Wiese. The year 1988 was the time that the council adopted the Flower Farm proposal to be signed as a 383A proposal under the Local Government Act, now section 199 authority.

In 1989 letters to Messenger Press, Minister Wiese and Opposition; met senior officers of local government department; letters to Hon. Anne Levy, new Minister for Local Government, attempting to meet with her; two questions by me in Parliament; two letters to Premier Bannon.

In 1990-91, there were nine attempts to acquaint the Ombudsman with these problems; five replies from the Ombudsman, all unsatisfactory. As far as I can remember, there was never a proper investigation of the matters raised by Parra. The Ombudsman's office simply phoned the CEO for answers to his questions. I should record here that the three council members from Parra who saw me sought legal advice of their own because they were so concerned about their personal responsibility as councillors involved in a project that they did not support and that they were convinced was doomed from the start. How right they were.

The legal position, of course, is that in the event of a council project failing financially, the cost of that failure is picked up by the council and directly by the ratepayers, not the electors. Councils are incorporated bodies. As regards the three councillors who wanted advice as to their ability to bring a class action against the council, I recall that this course of action was not available to them.

This demonstrated the depth of their despair and concern—a concern for their own integrity and standing in their community. In other words, they wanted to be able to front the people of Port Adelaide and say, 'We tried to distance ourselves from the Flower Farm. Don't blame us.' I applaud them for their courage, honesty and the way in which they pursued their principles. The people of Port Adelaide should know now that at least a few councillors did everything in their power to distance themselves from what they could already see was a disaster.

Some councillors still show concern but they are more often than not brushed aside, and I will demonstrate that later. I have to wonder—as I am sure the Hon. Mr Davis wonders—why they keep being brushed aside. One such person, Councillor, now Alderman, Milewich, a courageous young man and, if I may say so, rough around the edges, shows more than a little bit of the traditional Port Adelaide guts.

I shall cite some examples of questions asked by Alderman Milewich and the attitude of the mayor who responded. These are questions on notice and examples of a member of the council trying to do his job of representing the people. The situation has all the hallmarks of the rebuff suffered by any councillor who dared ask for information. The information should be public. What is there to hide? Why can councillors not know what is going on in areas where they have a clear responsibility? I will read some questions and answers from council minutes of October 1994. The first question is:

How many overseas and interstate trips have been undertaken by staff and members of the Port Adelaide council in respect of Port Adelaide Flower Farm business in the last four financial years. Who went on these trips and what were the full costs of these trips and, what were the contributions to each of these costs by Port Adelaide council and/or Port Adelaide Flower Farm? If any of these trips were paid for in full or in part by Port Adelaide council when was approval given by the Port Adelaide council?

The answer from the Mayor is as follows:

The Chief Executive Officer is responsible to the council for the execution of its decisions and for the effective management of the operations and affairs of the council. In order to discharge his duties, including the business of the Flower Farm and its consequent involvements, interstate travel by staff is necessary. All members of the council are aware of the efforts to attract external equity for the farm over the past four years, culminating in the Flowers of Australia Limited proposal. The council is also aware of the Chief Executive Officer's position on the Executive of the Flower Export Council of Australia, an organisation which is vital to the growth of Australia's cut flower export industry and therefore to PAFF's interests.

In my opinion, given past decisions of the council regarding PAFF, the question in respect of interstate travel is irrelevant to the business of the council today, therefore it is not intended to expend scarce council resources on the extensive research which would be required to specifically respond to it.

In respect of overseas travel the Chief Executive Officer visited:
(a) Japan in 1990—travel was authorised by the Port Adelaide Flower Farm Supervisory Board pursuant at its terms of reference. The cost to PAFF/council was $6 600.

Activities were not confined to PAFF business, the opportunity being taken to investigate other matters of council interest, e.g. the Technopolis program in Japan in context of MFP. (b) USA and Europe in 1992 during which he represented FECA at the American Institute of Floral Designers Convention in Boston.

The travel was authorised by the PAFF Supervisory Board pursuant to its terms of reference, the cost to PAFF/council was $6 846. Air tickets were provided by FECA sponsor, Qantas. Activities were not confined to PAFF/FECA business, the opportunity being taken to investigate/attend to other matters of council interest, e.g. MFP, waterfront developments etc. In both cases extensive reports were submitted to the council on his return.

The second question is:

(a) As elected members of council do we have a duty to be properly informed in all matters to enable us to properly discharge our duties as members of the council?

(b) Therefore, is it a reasonable request, if not why not, for members of the council to have copies of financial statements of the last three years for the Port Adelaide Flower Farm? Therefore, I repeat my question of the last council meeting to have this information available within 14 days which is, an audited profit and loss statements for the past three years be supplied within 14 days? Can the Chief Executive Officer please answer the question (yes or no and why not) rather than informing those concerned that the question will be addressed at a later date.

The Mayor replied as follows:

For all matters where council members are required to make decisions, they are entitled to be reasonably and well informed. However, the inference of the questions that in some way Councillor Milewich is being denied information in order for him to properly discharge his duties as a member of the council is wrong given that:
(a) he did not attend the council budget meeting of 6 June 1994 or send an apology for his absence;
(b) he did not attend any of the informal pre-budget sessions or contact any senior officer in respect of the drafts;
(c) he did not attend the special meeting of the council on PAFF's future held on 26 June 1994, nor did he tender an apology.

There are a number of other parts to that answer, but I will leave them out to save time. This answer does itself raise other questions, apart from the disgraceful and childish attempt to denigrate a councillor. This sort of behaviour is unacceptable, and one hopes that the Mayor did not write that material, although he had to deliver it. I will read further questions and answers that relate directly to that series of questions and answers. This question relates directly to the previous question:

Were the audited profit and loss statements for the past three years of Flower Farm operations presented at:
(a) council budget meeting of 6 June 1994;
(b) any informal pre-budget sessions in 1994;
(c) special meeting of council held on 22 June 1994;
(d) any ITEC, Skillshare or occupational health and safety committee meeting in 1993-94?

The answer is, 'No.' In other words, that completely backs up what I have said, that it is a disgraceful effort and childish attempt to try to denigrate a councillor by saying that he was not at the meeting and did not apologise for not being at the meeting when none of the things on which Councillor Milewich wanted answers was discussed or presented at those meetings. A further question is:

Can and will the Chief Executive Officer make available copies of the full audited profit and loss statements and balance sheets for the past three years of Port Adelaide Flower Farm operations within 14 days to any member of the council?

The answer from the Mayor was:

Councillor Milewich is referred to responses given in respect of similar questions at recent meetings—

where the specific figures requested by the councillor were denied. Another question is:

What are the net financial payments made by the Port Adelaide council to PAFF in the financial years 1991-92, 1992-93 and 1993-94?

The Mayor replied, 'Nil.' I will demonstrate, as I am sure the Hon. Mr Davis will demonstrate later—if he has not already demonstrated—that is an absolute nonsense. Not $1 has been through council to go to the Flower Farm. A further question was:

Councillor Milewich, given that the CEO Mr Beamish is and was the architect of the PAFF entrepreneurial venture, and having regard to its present and past dismal performance, has the CEO a conflict of interest sitting in judgment of his own creation, and does not this conflict of interest fly in the face of all risk management systems,

whereby an arm's length objective assessment by an objective body is essential as a safety net to protect public funds?

The Mayor's answer was:

The performance of the Port Adelaide Flower Farm has not been 'dismal'.

Anyone who has read what the Hon. Mr Davis has had to say and any part of the rebuttal from the Hon. Mr Cameron would not agree with that answer from the Mayor. The answer to the second question was 'No.'

The Hon. L.H. Davis: If it hadn't been backed by the Port Adelaide council it would have gone into bankruptcy.

The Hon. J.C. IRWIN: Exactly!

The ACTING PRESIDENT (Hon. R.R. Roberts): Order!

The Hon. J.C. IRWIN: The last question is as follows:

Is it true that the $1.8 million taken over as a debt for equity by PAC was borrowed by the PAFF without a resolution from council?

The Mayor replied 'No.' In my words, that is wrong. The council acted six months after the PAFF borrowed the funds. The question is literally correct but can be slanted to allow this misleading answer. I will highlight this exercise later. I hope that the Mayor is well protected if and when this matter is investigated properly.

I now turn to the Hon. Mr Cameron's comments and take them in sequence. What I say should give some clue as to areas where investigation is warranted. Earlier in his speech the Hon. Mr Cameron made reference to the local government capital works program 1992-93. The Flower Farm was a recipient of $182 900 of Commonwealth money and $62 100 of council money, which I understand was from loan funds.

Members may recall that the program was commenced to boost local employment, and we made lots of comments about that at that time, including how it was targeted to marginal Labor seats—not that one would call Port Adelaide a marginal Federal seat. One wonders how many dollars were spent on job creation. The main beneficiary may well have been IHM. I put the following questions: did IHM supply the plants when plantings were extended under the capital works program in 1993; was the supply of new plants put out for tender; were the plants supplied competitively with the local supply costs; and did the use of the $250 000 completely satisfy the allocation guidelines of the Commonwealth?

The Hon. Terry Cameron mentioned the original business plan for the Flower Farm breaking even in year four. I ask: to which 'original' business plan does Mr Cameron or his advisers refer? The original business plan was passed by council in April 1988. It is quite a bit different to the plan signed by Minister Wiese. Who authorised the changes? In reference to the business plan signed by Minister Wiese, in a response given to me by Minister Levy where her answer included the statement that the Flower Farm 'made no call on council funds and therefore did not affect the rates', I refer members to the business plan signed by Minister Wiese; it is undated but carries the code 087/45/03TC2, whatever that means. I refer members to the very last sentence in appendix iii, as follows:

The scheme will be financed from the revenue of the corporation and subsidies received and income earned from the project.

The rhetoric and rainbow-like projections referred to by the Hon. Mr Davis are in both plans and typical of the rosy projection designed to get the approval of unsuspecting or gullible councillors. After six years the reality is that it has not got within a bull's roar of the original projection or the many attempts to rearrange the deck chairs. Is it any wonder that local unrest had been fomented by the actions of the driving force behind the setting up of the farm?

I shall now read from the report to me by one well-known former bank manager following requests for advice to him from Stan Rogers. It states:

Matters for consideration. Extent of payments made by Port Adelaide council to International Horticultural Management Pty Ltd. I have checked the figures quoted by Mr Rogers in his letter in the boxes of page 1 and page 2 against both business plans. According to the plans, they are correct. For the period from commencement to 18.6.1991, business plan 1 shows total payments of $52 000; business plan 2 shows total payments of $237 922. For the period 22.5.1989 to 3.6.1991, Mr Rogers' list shows from council cheque runs that cheques to the value of $1,006,850 were drawn in favour of IHM. There is a wide divergence between one business plan and the other, and a far wider divergence still with cheques purportedly drawn. It requires explanation before any hard and fast conclusion can be drawn.

In my opinion, both business plans are indefinite, *inter alia*, as regards accounting methods and operational structure. Item 15 in plan 2 mentions an operational structure comprising a board of management (section 666C of the Local Government Act), and a contractor. It also mentions that an indenture will address the position of the council relative to that of the contractor. With this in mind, one explanation for the wide divergence in figures could be that IHM has adopted a role whereby it pays all the expenses of the venture and receives funds from the council for this purpose, which funds therefore would be well in excess of the level mentioned previously.

For the period from commencement to 18.6.1991, the business plans show operating costs for plan 1, $736 418; plan 2, $756 131; administrative costs for plan 1, $73 560; plan 2, $47 870; finance costs for plan 1, $180 854; $197 183, plan 2; capital expenses for plan 1, $387 300; and $546 636 for plan 2.

If we assume council transferred progressively all operating costs, say, $756 131, to IHM, and bearing in mind operating costs significantly exceed the business plan, we know that the venture was to the order of $2 million deficient. Then this figure could be approaching the level of cheques drawn. It should be mentioned here that initial and subsequent purchases of plant, stock, etc., are included in capital expenditure. The margin, therefore, could be decreased further. Also, there is a danger in being misled into considering only the one aspect, that is, payments to IHM without taking into account funds originating from IHM re income from the venture, however meagre or resulting from a special purpose exchange of cheques, etc. Further, in any consideration now on this aspect we cannot place any importance on either business plan; the deficiency of $2 million overrides them.

In conclusion, Mr Rogers is close to the scene and is familiar with more aspects than I. He may well be correct in the conclusion he draws. However, I believe a logical explanation could exist for the high level of payment to IHM, and certainly this should be sought first. [Questioning so far over the years does not bring any other explanation.] I believe questions should be asked as to:

1. The operational structure of the venture, the role of IHM and the purpose of the payments of this high level to them.
2. Whether council approval has been sought and obtained at appropriate times.
3. Whether the Minister is aware of the involvement of IHM as being a recipient of council funds to this level and of the operational structure of the venture.

That refers to the Minister who signed the original agreement. The letter continues:

There is no doubt that, to date, ratepayers have suffered heavily in the venture. In the short term now it seems likely to me that they will suffer more and any turnaround is very uncertain. Certainly, the problem now requires management far better than that displayed in the past.

That was written by a retired bank manager of some considerable experience on 27 August 1991.

I am tired of reading over and over again how my actions and those of some Port Adelaide councillors over the years from 1989 to 1990 and later affected the viability of the Flower Farm. I have made no public comment on the Flower

Farm since Mr Beamish and the council commenced a defamation action against me five years ago—a pretty effective way of shutting someone up. Why did the council and the CEO drag out that exercise for so long. Let me remind members, if they do not already know, that the whole arrangement of IHM and the Flower Farm is for export. There were no sales in Australia. How on earth can comments in Adelaide, brief as they were, ever make one iota of difference on the world's flower markets? I hope that balanced thinking people can see beyond the huff and the puff.

Reports to council by the PAFF board have been abysmal over the years. The Hon. Mr Cameron notes that the board did not report properly to council in 1993-94, and he goes on to give some pathetic excuse about being bombarded with information.

The Hon. T.G. Cameron interjecting:

The Hon. J.C. IRWIN: I know. Just let me go on. Bombarded they were with pathetic words. I have read them and I have seen them all. They were bombarded but pathetically short of the sort of information that they needed on which to make informed analyses and decisions. One Port Adelaide councillor was an accountant and others had business experience and should and could understand a balance sheet.

An honourable member: Balderdash!

The Hon. J.C. IRWIN: I am sorry; I hope that is in the record. Some were well qualified to make good decisions. I can only say that some former and present councillors and aldermen must be accountable for the decisions that the council took over the years. They cannot, like some, hide away and say, 'We didn't know.'

I would not expect the Hon. Mr Cameron to know, but the Hon. Mr Davis pointed out and quoted from the term of reference for the Flower Farm, section 32, which provides that the board shall, not later than 31 August each year, submit to council an annual report detailing the activities, statistical data and performance of the Flower Farm for the 12 months ending 30 June last preceding and shall have appended to it for each 12 month period, prepared by the CEO, relevant statements for the profit and loss and balance sheet to reflect the activities of the Flower Farm.

Perhaps we will be told that this document does not and never had any status. It was adopted by the council and discussed by it. It is one of the built-in safeguards for the proper responsibility of the council, the councillors and the community. It may well have been one very important reason why the council approved the Flower Farm in the first place.

The Hon. T.G. Cameron: You wouldn't even have launched the attack if it was the Burnside or Unley councils.

The Hon. J.C. IRWIN: I would have.

The Hon. T.G. Cameron: You just like getting stuck into the Port.

The Hon. J.C. IRWIN: The honourable member did not hear what I said earlier. He might read it.

The Hon. L.H. Davis: You haven't heard the message, have you?

The Hon. J.C. IRWIN: No, the Hon. Mr Cameron might do me—

Members interjecting:

The ACTING CHAIRMAN (Hon. M.S. Feleppa): Order, please!

The Hon. J.C. IRWIN: If he did not hear what I said to start with, the Hon. Mr Cameron might do me the justice and show me the respect of going back to where I said I have a lot of respect for the people of Port Adelaide. The councillors who came to see me, who were not of my political persuasion, did not even talk about politics. I have a lot of respect for them, as I have for the local members down there; I have said all that. To comply with one of council's own documents may not breach the Act or the regulations. That is not the point; it breaches the council's own documented and adopted principles. Does the CEO decide what the council should and should not do with its own policies? Okay, there is probably a delegation document which says that certain things are delegated to the CEO. That occurs with every council, and I respect that. But, under this issue one does not suddenly tear up one's own council-made decisions. Is it any wonder that some councillors and members of the Port Adelaide community become agitated when the council cannot even keep its own rules, which were put there to safeguard that council and the community? The Hon. Mr Cameron is a businessman and explained at great length his personal experience. He is being led unwittingly by the nose.

The Hon. T.G. Cameron: A businessman?

The Hon. J.C. IRWIN: Well, you are, too, but I will not go into that. He should put himself in the position of a Port Adelaide councillor.

Members interjecting:

The Hon. J.C. IRWIN: I did not mean to go into that area; I only make the point that the Hon. Mr Cameron knows what it is about; I am sure he can read a balance sheet. He should put himself in the position of a Port Adelaide councillor or a concerned local resident. I cannot believe he would sit back and allow a multi-million dollar project to stumble along from crisis to crisis with precious little information. The Hon. Mr Cameron is willingly led by the nose again when making reference to my involvement which led to the defamation action against me. I am constrained in spirit by an agreement with Mr Beamish and the council not to comment on the outcome of any action against me, and I do not intend to break that under this privilege. Most of the Hon. Mr Cameron's comments were wrong. I will not take the time of the Council to go over each of those, because I do not think it would prove anything.

For the benefit of the Hon. Mr Cameron, I will tell him that I have had long experience as a farmer, growing various primary products. They may not have been not pot plants, but I was certainly growing things and working with nature. I think I know a little about the vagaries of nature and the highs and lows of working with open markets, especially world markets. I have had more than a little experience in risk-taking, both in primary production and in the financial markets. I believe I know enough to go on warning councillors that it is not for ratepayer funded public bodies such as councils to risk public money in so-called entrepreneurial ventures. Hardened by the Flower Farm experience, it has long been my view that, if council ventures fail, the financial responsibility should rest with those who supported the decision and set it up. This would be a sure way of ensuring that there would not be any councils, for a start, but also that those who make and support these sorts of ventures know the penalty if they failed. This would ensure that councillors put their money where their vote is.

They would be stupid to be led in the wrong direction no matter how lofty the social justice aims. I have thought long and hard about how I can make a constructive contribution to the motion of the Hon. Mr Davis. I realise that for the motion to succeed and for some form of investigation to be made into the council and its Flower Farm it has to have the support of the Democrats and/or the ALP Opposition and also

must convince the Minister for Local Government Relations that the evidence supports an investigation by at least the Auditor-General. The Hon. Mr Davis and I have between us vast amounts of information which could be systematically read into the record, but we both resisted that and I still have a little bit to go. I put on record a long submission from the late Stan Rogers in the early days of the Flower Farm, and I am going to cut that down to a summary due to time. It states:

Having made the time to scan through the material submitted herein, I find that I have, of necessity and/or otherwise, tended to reiterate somewhat on certain aspects. I can only hope that you accept that I have done so inadvertently due to the fact that the entire submission has been put together in a momentary manner, perhaps even as a series, i.e. in rudimentary stages as time has permitted. Quite naturally I consider all points made to be important, simply some points being considered more important than others. I then attempt to list them, NOT in any particular order...

1. Business Plan
   (a) Plan provided to council and the Minister and accepted for approval and endorsement is all but incomparable with the business plan which now exists and which has been supplied to restricted members as being an unaltered copy of the original.

For the benefit of the Hon. Barbara Wiese, I have a copy of the plan signed by her. It has no date on it and it has a section at the bottom saying that the scheme will be financed by the corporation. The plan signed by the Hon. Barbara Wiese is totally different from the plan the council approved. The submission continues:

I have been unable to find trace of any approvals given by council for the alterations/amendments made. Because the business plan is part and parcel of the contract/agreement, same being repeatedly referred to within the contract, it, I think, necessarily follows that any alterations made must identically follow in the contract as a result of agreements between the parties concerned.

2. Contract agreement.

(a) Validity of same is very questionable for several reasons:
   (1) signed on 2 December 1988, well before the organisation of IHM (Growers) Pty Ltd was accepted as being a legitimate registered company;
   (2) another unregistered organisation, viz International Horticulture (Management) Pty Ltd, was highly and strongly recommended to council by Beamish and tacitly, it is considered, by Norman Waterhouse and Mutton, as being of good report and well established on strong business lines for amalgamation with the council upon a multimillion dollar project. Elementary enquiries reveal matters of real concern however, matters considered demanding of complete and thorough investigation and involving issues of company law and ethical issues relative to the risk factors involved with the investment of public monies;

(b) The initial approval of the scheme by council was for the organisation of International Horticulture (Management) Pty Ltd and NOT for any other associate, subsidiary, or whatever is to be taken into account on the project;

(c) The document as copied and given to some councillors as being a copy of the original contract is not believed to be such. As shown by the two totally different business plans now to hand, the original business plan which was worded into the contract has been so radically altered to the extent that the wording of the contract would necessarily have to have been similarly amended to accommodate same. Yet again, only a complete, in-depth, and thorough investigation will uncover the anomalies and, perhaps more importantly, the reasons for same.

3. Cheque statement of payments made.

As you will no doubt note, these payments are ever increasing, despite the fact that council has undertaken the responsibilities of accounting, previously the domain of IHM (Growers) Pty Ltd. It should be borne in mind that this then also involves a rather deep involvement with matters relative to the Department of Taxation, matters of which council becomes the responsible party without having been warned of same. Once again I can only express my deep and genuine concern.

This matter is one of undoubted complexity and one I believe involving all sorts of misdemeanours of varying magnitudes.

I do hope the points made herein are of assistance to you in your endeavours to fulfil the responsibilities of your station in life.

The letter is signed by Mr Rogers. I will read into the record part of a legal opinion regarding some of the allegations made by Mr Rogers. The document states:

In respect of what I term the 'Flower Farm Project' set out hereunder and various comments for your consideration:

1. The comments and criticisms in the report prepared by Mr Stan Rogers are in my opinion valid save and except for the 'weight' that he puts upon the legal significance of the fact that the company IHM (Growers) Pty Ltd ('IHM') had not changed its name as at the date of the agreement.

Note: Mr Rogers considers that the company was not in existence at the time of the agreement whereas it was in existence but under a different name.

It does however seem apparent that without a 'creditable explanation' there has been a backdating of the company resolution to change its name in order to match up with the date of the agreement, otherwise there seems little reason to wait for several months after passing the resolution before lodging it with Corporate Affairs.

2. The alleged variation from the plan as (approved by council and the Minister) is a major concern. The plan as approved in my opinion sets out the authority to establish and conduct the Flower Farm Project.

3. The plan is referred to in the agreement made between the council and IHM. It is essential that the plan be located and sighted [which it has been] so that it can be compared with what I term the new plan. The plan does not provide for it to be amended without further approval of council and/or the Minister and I would not expect it to have such provision, particularly in respect of any matter of substance.

I have already shown members the plan. It continues:

4. It should be noted that the definition of 'plan' in the agreement includes any amendments as made from time to time and agreed by the parties. In my opinion that should not overrule the original approval.

5. It is necessary to do a check on the history of IHM (previously known as Brian Freeman & Associates Pty Ltd) to see whether or not it has been properly described in the recitals of the agreement which are warranted as 'true and accurate'.

6. Clause 4.11 of the agreement does provide for the plan not to be amended without the prior consent of the council and the manager. Clause 6 again makes provision for council to review any changes in the plan.

7. I am instructed that there is more than one council representative—

That is not relevant. It continues:

9. I do draw attention to part 8 of the schedule where it sets out—

The Hon. T.G. Cameron: That was probably a bad bit.

The Hon. J.C. IRWIN: I will read it out if you like: it is only about the number of councils that can go on the board. The document continues:

9. I do draw attention to part 8 of the schedule where it sets out minimum percentage achievements in relation to the projections. It would in my opinion be hard to justify any alterations to the plan that would effectively alter these percentages (or minimum amounts) without first having obtained the formal approval of council and perhaps even the Minister subject to the provision of the Local Government Act.

Apart from what I have already said, I indicate the following areas have not been satisfactorily explained by the Hon. Mr Cameron's contribution, nor by previous Ministers in answers to questions raised by me in this Council. First, I refer to the delegated authority under the Local Government Act for a section 199 authority to receive and expend revenue—an area

which must be tightened up under any review of the Local Government Act.

I asked questions of Minister Levy in February 1992 and again in April 1992, and I am advised that the PAFF board approved borrowings of $1.4 million from the Local Government Financing Authority in May 1991 for restructuring. I have mentioned this earlier in relation to a question of Alderman Milewich. The facility was not discussed by the council, which knew nothing of it until six months later in the new financial year when council approved the borrowing of $1.5 million to replace the $1.4 million borrowed by the Flower Farm board. There are a lot of questions raised by these transactions, not the least is just who gave approval for a mayor and a CEO of a council to approach the Local Government Financing Authority for a loan for a section 199 authority which, in this case, was the Flower Farm.

My questions are: what documents were used for that transaction? How on earth did the Local Government Financing Authority find sufficient percentage of assets and cash flow of the Flower Farm if it was a stand alone individual entity without any call on council funds? Where were those assets and rates and cash flow of the farm to support such a loan or were the assets and rates of the council used for that purpose? If so, why was not the loan application approved by the council before this exercise got off the ground?

I am appalled that a section 199 or section 200 local government authority can borrow money in its own right, anyway. The following answers to questions I asked the Hon. Anne Levy gave some more pointers to my concern as to how the council was so badly led in this instance, and maybe that has a question mark about it. In answer to questions from me about a section 199 authority borrowing money, on 27 July 1992 the Hon. Anne Levy answered, as follows:

> The 'general' power of delegation conferred on councils under section 41 of the Act does not permit a council to delegate its power to borrow money or obtain other forms of financial accommodation. However, the power of delegation under section 41 only extends to delegations to council committees or officers or employees of councils. The power of delegation under that section does not enable a council to delegate any of its powers or functions to a controlling authority established under either sections 199 or 200 of the Act.
>
> In the case of a section 199 Controlling Authority, section 199(4) of the Local Government Act provides:
>
> > The council may, subject to conditions determined by the council, delegate to a controlling authority—
> > (a) the power to receive and expend revenue;
> > (b) any other of the council's powers that are reasonably required to enable it to carry out the functions for which it is established.
>
> However, the power to make by-laws may not be delegated. If a controlling authority is established by a council to carry out a specific project (which may be a form of commercial activity or enterprise), a power to borrow money or obtain other forms of financial accommodation may well be 'reasonably required to enable it to carry out the functions for which it is established'. I am advised, therefore, that as a matter of the interpretation of section 199(4), there does not appear to be any reason why a council's power to borrow money cannot be delegated to a controlling authority established under that section 199.

The obvious question from that answer was whether there was a delegation from Port Adelaide council to the Flower Farm board prior to May 1991, and I would imagine that a full council would need to give that delegation. In another answer on 25 February, the Minister said:

> For long-term borrowings, the Local Government Finance Authority of South Australia normally seeks a statutory declaration from the Chief Executive Officer declaring that the council resolved an order to borrow the sum of money sought together with the date of the meeting at which such resolution was duly passed. Where long-term borrowings are involved, the council would normally also issue a debenture to the finance authority.
>
> Debentures issued by councils for loans are executed under seal. Section 37 of the Local Government Act requires that the common seal of the council can only be affixed to a document to give effect to a resolution of the council and the sealing must be attested by the Mayor or Chair of the council and the Chief Executive Officer. This provision of the Act is seen to provide a reasonable measure of protection for lenders.
>
> In respect of short-term loan facilities, it is the practice of the Local Government Finance Authority of South Australia to obtain a copy of the relevant council resolution attested to by the Mayor or Chair and the Chief Executive Officer. The documentation for this shorter term loan facility has generally not been required to be exercised under seal of council.

I follow that reference with a note from the Corporation of the City of Port Adelaide for the year ending 30 June 1991, as follows:

> Note to annual statements of income and expenditure and balance sheet. Note 1. Port Adelaide Flower Farm. An amount of $1.4 million is owed to the Local Government Finance Authority in relation to PAFF. The intention of council is that this loan will not be repaid until after 30 June 1992. As at 30 June 1991 the loan itself was structured as a renewable short-term facility in order to achieve savings as a result of reduced interest rates.

I make very strong mention of that point. The Harbourside Quay saga has still not been satisfactorily explained, nor have the accounting methods used to disguise that transaction. The exercise was a net loss to council and, according to published reports, it was costing $5 000 a week in holding charges, and my research shows that, because of the high interest charges earlier, it was much higher than that.

A transaction started in 1986 and it was eventually sold to the Bannon Government in 1991—nearly five years later. Let me expose the contortions of the CEO, Mr Beamish, as he attempted to duck and weave his way through and fight the impossible. Never mind, it was only the poor old ratepayers of Port Adelaide. I now turn to a motion which started it all in 1986 and which stated:

> A contract has been entered into to purchase harborside land for $1.3 million and to finance the project it will be necessary to take up temporary finance. Westpac Banking Corporation can provide the funds under a bill system but have not quoted an interest rate although they have specified the following charges which would be applicable: $1 300 establishment fee, a margin of .75 per cent per annum; and an unused limit of .75 per cent annum plus they require the approval of the Minister of Local Government and the Treasury.
>
> The Local Government Finance Authority have also advised that they can provide short term loans at an interest rate of 15.5 per cent per annum and that no other fees or charges are applicable and only requires a resolution of council to obtain the funds. As the settlement date is 11 July 1986 it would not be possible to obtain Minister's and Treasury's approval. . .

Whether it was needed or not does not seem to matter much. The recommendation is as follows:

> That on Monday 7 July 1986 at a meeting of the Corporation of the City of Port Adelaide held in accordance with the provisions of the Local Government Act 1934 as amended the following resolution was duly passed: that for the temporary accommodation of the council, application be made to the Local Government Finance Authority of South Australia pursuant to section 26 of the Local Government Finance Authority Act 1983 as amended for the loan funds by way of a fully drawn advance of $1.3 million on the credit of the revenue of the council with the proceeds of such advance to be credited to council's general bank account—Westpac Banking Corporation—

That is what started it all. The problem is that that was not carried out. I now refer to extracts from the Messenger at the time the whole thing was sold in 1991 as follows:

> Port Adelaide council has bailed out of the harborside quay housing development—accepting a State Government offer to buy its share of the riverside land for $1.8 million. The council voted to

sell the 3.4 hectare parcel of land at its latest meeting—bringing to an end $5 000 a week interest payments on the land—

interest payments on the overdraft, not on the loan it did not take out—

but council's chief executive officer Mr Beamish said the sale would not jeopardise the development. He said the Premier's special project unit was continuing negotiations with developers to ensure a 'quality' development went ahead. The two year hold up with the developer—Pennant Holdings—had cost the council $800 000 in interest and bank charges.

He has put a figure there. It continues:

The council bought the land on the Port River's east bank for $1.3 million, on a holding loan with a compounding interest rate. Repayments have recently reached nearly $5 000 a week. Mr Beamish said the riverside development, first mooted in 1986, had been victim to a set of unfortunate circumstances. . .

The Hon. Mr Davis, I and a lot of other people at Port Adelaide know that that is always the excuse. There have always been unfortunate circumstances: whether it be shipping, planes, strikes, whatever. I came into the act with a press release which received a little bit of a run and which stated:

Port Adelaide council lost more than $700 000 on the harborside quay land deal. . . Mr Irwin said he had calculated that the $5 000 a week holding charges for the land meant the project had cost the council an extra $1.2 million on top of the $1.3 million purchase price—a total cost of $2.5 million subtracting the $1.8 million sale to the State Government from the total, he said the council's loss was $700 000. Mr Irwin said the deal would have cost Port Adelaide much less if a different financing method had been used. . . Port council CEO Keith Beamish said Mr Irwin's calculations were wrong and that interest charges had been $800 000, not $1.2 million. But he agreed that 'with the benefit of hindsight' it would have been better to make other loan arrangements—although the savings in interest would have been 'little'. He said the loan arrangement was never changed because the deal was always 'within reach of being finalised' but fell victim to circumstances. . .

At the same time a letter was sent to the editor of the *Advertiser* by Mr John Kampert which states:

. . . I would like to know whether an investigation into this massive loss has been planned to discourage other councils from such 'commercial entrepreneurial' gambles with ratepayers' money.

I now refer to a confidential memo which states:

Harborside Quay—

Attached are some briefing notes prepared for the Minister of Environment and Planning last November which succinctly set out the state of play as it then existed [in 1990]. That has not changed except for a further lapse of time.

The council purchased the land at auction in June 1988 for $1.3 million. At the present time holding costs (interest) and legal and survey costs have taken the total cost to $2.2 million [this is 1990] of which $95 000 has been written off. The current valuation is $1.8 million. The finance is by short-term overdraft and, with the benefit of hindsight, it would have been preferable to have funded it to a longer-term loan at lower interest rates.

There is another briefing paper dated 10 November 1989 and headed, 'Harborside Quay Development Scheme. Notes for the meeting with the Minister of Environment and Planning'. Under 'Finances', it reads:

Council purchased part of site for the purpose of consolidating with State Government land for $1.3 million in mid-1986. Total costs, inclusive land, transfer and interest to 31 December 1989 will be $2.1 million. Daily interest cost to council is $1 057.10.

That is daily, so it is about $7 000 a week.

The Hon. T.G. Cameron: How much is it now?

The Hon. J.C. IRWIN: I have not got to that. I did not have time for that. The $5 000 which I and others noticed was average. I restate the facts given to Minister Lenehan: total cost, including transfer and interest to the end of December 1989 will be $2.1 million. The land was not sold until February 1991; thus, another 12 months of interest payments. By December 1989 it had already cost $800 000, plus another 12 months of interest, plus inflation, which is not mentioned. I have to leave it to honourable members to judge the facts, which are from briefing notes to Ministers. Perhaps they have queried them.

The Port Adelaide council did not adopt its annual budget with a comprehensive Flower Farm budget on a number of occasions. We are constantly told that the Flower Farm had no bearing on the council's budget. The latest advice on this was April 1995 from the mayor.

One has to question this from two points. First, how is the payment of $900 000 to IHM by the council from May 1989 to June 1991 explained? What about the dollars paid to IHM in months other than those from May 1989 to June 1991, which is just a sample? Secondly, and just as important, how many dollars were paid by the council which have benefited IHM, the Flower Farm and the Perce Harrison Environment Centre from 1989 to the present which remain hidden in the council's accounts? In other words, that was using the council's equipment to do various things which are debited to the council and nothing to do with the Flower Farm where they are hidden altogether. Also, how much work and administration for IHM, the Flower Farm and the Perce Harrison Environment Centre was done by Port Adelaide council and what was the true cost of this work and administration? Probably only the council's auditor or the Auditor-General could follow this paper trail.

The rate-setting procedure of the Port Adelaide council was not correct in 1989, when the rate was set prior to the adoption of valuations. I asked a question about that some time ago and Minister Levy answered that they had been correct in both years. I can show from the minutes that they were not.

The council's periodic financial budget reviews were not carried out properly according to the Local Government Act and did not include reviews of the Flower Farm. There is plenty of evidence of that and of some very ham-fisted attempts to do it. However, until we stirred the pot here and elsewhere it was not done at all. I am pleased to note that there is some attempt now.

The annual publicly published reports of the council were abysmal as far as the Flower Farm was concerned. I do not care when the provision was put into the Local Government Act: the people of Port Adelaide have a right to know how a council enterprise such as the Flower Farm was performing. If the Flower Farm performed anywhere near the rosy predictions of earlier years, I have no doubt that any annual profit results would have been sung from the rooftops. Good old positive results are far better than a report full of glossy photographs which the Port Adelaide people have seen through the years. It follows that the annual performance figures, no matter what the result, should have been published.

Apart from some photographs and text relating to the above grants which allowed expanding the growing areas by 20 000 boronia plants, rice flower and kangaroo paw, there is only one true reference to the Flower Farm finance in the financial section at the back of the report: Flower Farm lease $17 603. I note rate income for 1991-92 increased 14 per cent over 1990-91. The 1990 annual report states that IHM growers were engaged to project manage the development (of the Flower Farm) and to be responsible for the design, management and marketing of all products from the export market.

Despite reiterating in the same 1990 report that the council injected $250 000 as start-up capital for the Flower Farm, there is no specific reference to the finance of the farm in that year and that year's report. There is also no mention in that report published in April 1990 of a further $250 000 LGFA loan for the Flower Farm taken out on 15 March 1990. I have tried unsuccessfully to find the 1991 report to verify that fact. In closing, I make very brief mention of the Merle Marten Village—another council run project whose management was brought to my attention. A former member of the Merle Marten Village, together with the late Stan Rogers, has recently advised me that the late alderman and former mayor, Roy Marten, recommended that this person be nominated to the board, which was done.

This person and Councillor Stan Rogers incurred the wrath of the council officer who kept the books of the village at the time by asking leading questions. They seemed to be always doing that. As soon as Roy Marten died the person was dropped from the board and the council got rid of the village. In a letter to me of October 1991, Mr Rogers advised:

As previously discussed, forwarded herewith photocopies of documentation relative to accounting procedures related to Merle Marten Village. You will please note from the council's general cheque statement data that payments are made to and for various village resident—see cheque numbers highlighted in yellow—which are deducted from general revenue. This procedure has been commonly adopted for a considerable number of years now, and, although I protested at a board meeting that the practice was quite improper and contrary to the directions of the Department of Community Welfare and/or the Department of Social Security, no corrective action has ever been undertaken. I have further been advised that

(1) several of the residents find it more convenient for them to pay for their accommodation and upkeep by lump sum in advance anything up to one year ahead, whilst

(2) others deposit varying sums of considerable worth for safekeeping and make withdrawals as convenient to them to cover such items as hairdressing, pharmaceutical supplies, podiatric attention (chiropody), liquor supplies, and so forth.

Instead of these sums being placed in trust accounts for them, these sums are taken into general revenue thus depriving the persons concerned of any interest benefits, and—of equal importance—such amounts remaining undisclosed to the relatives and/or friends should the resident be removed from the village or die whilst in occupancy—

a pretty strong point, I would have thought—

Despite the extensive data as contained in report No. 18.099 as presented to council for the meeting of 7/10/91, I would ask you to note the cheque payments highlighted and hereby drawn to your attention, and feel compelled to request that you draw same to the attention [of a certain lawyer] who has shown...interest [in the council's auditor]. Such procedures are irrefutably incorrect from an accounting point of view, and, equally as importantly, necessarily leaves members of the board of management completely bewildered.

I have presented an argument which—

The Hon. T.G. Cameron: The vendetta goes on.

The Hon. J.C. IRWIN: This was only the Merle Marten Village. I am putting it up there because I hope it will be investigated. It is gone now out of council's control. Points were raised with me. We tried to get something done about it because nothing had been done about it. Many other points are to be taken up. I have presented an argument which must be combined with the contribution by my colleague the Hon. Mr Davis. Extensive material has been presented which adds weight to the argument that many of the affairs and actions of the Port Adelaide council from 1989 on must be investigated.

The arguments and documents we have in support cannot be ignored and we have probably used only half of them. I urge members to support the motion and I urge the Government, in particular the Minister for Housing, Urban Development and Local Government Relations, to act quickly and decisively. Too much time has already elapsed. In conclusion I thank my colleagues for their forbearance in allowing this contribution to be made.

The Hon. T.G. ROBERTS secured the adjournment of the debate.

ADJOURNMENT

At 7.6 p.m. the Council adjourned until Tuesday 25 July at 2.15 p.m.